Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Shadegg
Shays
Shimkus
Shuster
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—16

Bono
Carson
Cubin
Doyle
Grijalva
Jindal
Kucinich
Mack
Miller (NC)
Oberstar
Ruppersberger
Sessions
Simpson
Weller
Wilson (NM)
Wilson (OH)

□ 1150

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3915 and to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION TO REDUCE TIME FOR ELECTRONIC VOTING DURING CONSIDERATION OF H.R. 3915

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that, during consideration of H.R. 3915 pursuant to House Resolution 825, the Chair may reduce to 2 minutes the minimum time for electronic voting under clause 6 of rule XVIII and clauses 8 and 9 of rule XX.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 825 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3915.

□ 1153

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3915) to amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to establish licensing and registration requirements for residential mortgage originators, to provide certain minimum standards for consumer mortgage loans, and for other purposes, with Mr. CARDOZA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

We are dealing with legislation today that seeks to prevent a repetition of events that caused one of the most serious financial crises in recent times.

We understand today that we are in a worldwide problem economically, with a terrible shortage of credit, with some institutions threatened. There is no debate about what is the largest single cause of that.

Innovations in the mortgage industry, in themselves good and useful, but conducted in such a completely unregulated manner as to have led to this crisis, I know people have said, well, we may be exaggerating it. Here's what we recently heard from the head of the Blackstone operation:

''The mortgage black hole is, I think, worse than anyone saw. Deeper, darker, scarier. The banks are now looking at new reserves and my sense . . . is they don't have a clear picture of how this will play out.'' That's from one of the leading private sector entities.

What we have today is a bill that cannot undo what happened but makes it much less likely that it will happen in the future.

The fundamental principle of the bill, and many people have lost sight of this, is not to put remedies into place to deal with these problems when they recur, but to stop them from occurring in the first place.

We have had two groups of mortgage originators recently. We have had banks subject to the regulation of the bank regulators, and they've made mortgage loans. And then we have had mortgage loans made by brokers who were subject to no regulation, who had access to pools of money that were not regulated and could sell it to an unregulated secondary market. It is not the case that the brokers are morally inferior to the bankers. In both cases we are talking about people overwhelmingly who are decent and well-intentioned. The difference is the absence of regulation so that pressures to do things that were irresponsible were checked by regulation in the banking area and were left unchecked elsewhere.

Essentially what this bill does in its most important form is to try to conceptualize the rules that bank regulators used to prevent loans from being made that should not have been made and apply them to all loan originators. Again, the goal is not to give more remedies when people face foreclosure when there have been abuses, but to prevent the abuses in the first place.

One question has been raised from some in the Attorney General field and elsewhere who say, what about our current efforts to deal with the people who were abused? Thanks to a very explicit amendment by the gentleman from North Carolina (Mr. WATT) who, along with the gentleman from North Carolina (Mr. MILLER), is one of the main authors of this bill, this bill will be entirely prospective in its effect, and people should understand no cause of action, no legal complaint, no remedy sought against anybody who up until now and until this bill is signed many months in the future, none of those causes of action will be abrogated. Every remedy being pursued against past abuses and even abuses that may yet to have occurred, although we hope they won't, until this bill becomes law will not be stopped.

There is some controversy about preemption. The bill takes a balanced position which has made a lot of people on all sides a little bit unhappy. We do not preempt the right of States to decide how to deal with mortgage originators, with lenders, with any of those. We do say that with regard to the secondary market, we are going to put some liability on those who are the active packagers, and that's in some ways controversial; but we believe the unregulated secondary market was a large part of this problem.

We do believe that you need to have some uniform rules if you are going to have a functioning secondary market. And we believe the secondary market has been on the whole useful but, having been unregulated, has caused some problems. So there is a limited preemption to that extent.

We are continuing to talk with people about ways to, frankly, improve this bill. There will be some amendments adopted today that will do this. It is a subject of great complexity with a lot of interlocking parts and some legitimate competing interests. We have arrived today, we think, at a reasonable balance. We do not believe that this is the way the bill absolutely will look in the end, but it is clear progress. And I want to stress the key point here is not in remedying past abuses. This bill allows all existing remedies for past abuses to stay in effect. This bill tries hard to prevent this pattern of loans being made that should not have been made for a variety of reasons from recurring and causing that great damage.

Mr. Chairman, I reserve the balance of my time.

□ 1200

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this legislation. I believe that it does, in fact, address abusive practices which, unfortunately, are in our mortgage lending market today. I believe it brings some needed oversight to the mortgage industry.

The legislation that we are considering today is the product, and everyone acknowledges this, industry acknowledges it, consumer groups, Members on both sides, the membership has engaged for over 2 years in an attempt to come together to span political differences, philosophical differences, and to address the very serious problem in the housing finance market.

I want to commend the gentleman from Massachusetts. He has allowed us to fully express our opinions. I believe that this long dialogue which we have had has resulted in consensus legislation which, though not perfect, I believe will achieve two very important, very necessary goals. One is to implement reforms that will offer consumers needed protection against predatory lending practices; and two, I believe, and I sincerely believe, that this legislation will preserve working Americans' access to consumer credit.

I believe that the Members most closely involved in the negotiations which led to the manager's amendment sincerely believe we have achieved these goals. We need not let the perfect be an enemy to the good. Members from both sides will address provisions of this bill which they believe do not satisfy the goal I have described above.

I believe the fact that this legislation fully satisfies neither side is an indication that we are in about the right place in achieving a nonpolitical, legislative remedy to address this issue of such great impact to our economy and our families, both now and moving forward.

In closing, let me say it has always been my view that when faced with serious issues like this one impacting millions of families across America, that Congress has both the privilege and the responsibility of rising above partisanship and acting in the public's interest. With this legislation today, I believe we have done just that.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I am very pleased to be able to yield to a member of the committee, who is not only one of the authors of this amendment, but has been a real source of strength to us in dealing with these issues throughout.

I yield the gentleman from North Carolina (Mr. WATT) 4½ minutes.

Mr. WATT. Mr. Chairman, I thank the chairman of the full committee for yielding time, and I thank the ranking member of the full committee who has worked with us and recognized that there is a serious problem that is going on in the real estate area, in the lending area, that must be addressed, and I want to applaud the efforts of the chairman for trying to address this issue in a comprehensive and fair way. And perhaps the greatest testament to the chair of our committee is that we have come up with a bill that perhaps not any single person I know is completely happy with, including me.

This bill started 4 years ago with an initiative by Congressman MILLER from North Carolina and myself, and this was in advance of the escalating foreclosures, the kind of irrational exuberance that was taking place in the real estate market. We saw that this was coming down the road because lending was becoming more available, but it was also becoming more irresponsible because it was viewed as a no-lose proposition. So lenders were making riskier and riskier loans to people who had more and more marginal credit and on terms that were not beneficial to the borrower but were financially beneficial, at least until the foreclosures started, to the lenders.

So the predatory lending part of this bill, which is title III, started out as the base bill to address those concerns that were taking place that were predatory practices, taking advantage of vulnerable borrowers so that lenders could make money. Then the onset of the foreclosures started, and the crisis in the marketplace in general reflected itself, and that has resulted in the addition of titles I and II of this bill, which put a framework around brokers, which creates a framework for responsible secondary market participation around lenders who dealt in prime loans.

Interestingly enough, over time, it is actually titles I and II that have become more controversial than title III, which was the predatory lending part of the bill. We think that the predatory lending part of the bill certainly has struck the best balance, because it is clear that with predatory loans there will be a national standard, but we are not preempting State laws and the States' ability to continue to innovate.

In titles I and II, where we have created a framework for the secondary market, we have preempted some State laws, and we have had trouble finding the right language to do that. We want to do it to create a national secondary market, but we don't want to do it outside the specific requirements that are needed to control the secondary market and make credit available. So there is some angst among a number of us about the preemption language.

As I said at the beginning, maybe the best tribute to all of us is that we have a bill that nobody really is completely comfortable with, and all we can say to all of those people is that we will continue to work on this bill not only after it passes the House today, but throughout the process to reach the more delicate balance and a satisfactory balance that at the end of the day will solve the problems in the marketplace and be satisfactory to all concerned.

Mr. BACHUS. Mr. Chairman, I recognize the gentleman from California (Mr. ROYCE) for 3 minutes to speak in opposition to the bill.

Mr. ROYCE. I thank the gentleman.

I do rise in opposition to this bill and to explain a line of reasoning that the Wall Street Journal and other critics have pointed out on their editorial pages. This proposal, in fact, is a trial lawyer's dream. What this bill does is it, with very murky language, forbids banks for signing up borrowers for what is termed ''overly expensive loans.'' It requires banks to make sure that the consumer has a ''reasonable ability to repay the loan'' and insist that loans must be ''solely in the best interest of the consumer.'' This kind of murky language would invite litigation from every borrower who misses a payment. The Wall Street Journal says that if this bill becomes law, we can expect to read billboards reading, ''Behind on your mortgage? For relief, call 1–800 Sue-Your-Banker.''

For the first time, under this act, banks that securitize mortgages would be made explicitly liable for violations of lending laws. This is a version of secondary liability that holds the bundlers and resellers of mortgages responsible for any mistakes of the original lenders. Now, the reselling of mortgages has been both a boon to the housing liquidity and risk diversification and, therefore, to lower interest rates for all of us that have taken out a loan. So to the extent that the bill adds a new risk element to securitizing subprime loans, and it surely will, the main loser will be the subprime borrower who will pay higher rates if he or she can get a loan at all.

Now, this debate is occurring during a challenging period for our mortgage market. What has transpired over the last few months has spread throughout our capital markets. It has the potential to slow the economy even further if we do this wrong. This bill is the wrong approach.

Now, we have had some signs of self-correction in the mortgage market. Lenders are underwriting mortgages much more carefully as a result of market discipline. Products which have proven to be unfit for certain borrowers such low-doc loans, short-term hybrid ARMS, interest-only products, those are becoming increasingly hard to find. Those have been pushed out of the market. But the legislation before us today ignores such advances. Not only does this bill fail to account for the progress made in the market, it has the potential to seriously restrict access to credit for millions of Americans looking to purchase a home or refinance their mortgage.

In its present form, a borrower will have the ability to recover all of the principal and interest paid over the entire history of the loan as long as he can convince a court that he didn't have a reasonable ability to pay, as I said. At the time the loan was originated, again, it is not hard to imagine how language such as this is going to be abused and run up the costs of home mortgages for everyone.

Mr. FRANK of Massachusetts. I yield 3 minutes to another Member who had a great input into this, the Chair of the Housing Subcommittee of our committee, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Thank you, Mr. Chairman. I would like to thank you and MEL WATT, Mr. BACHUS and Mr. MILLER and others who have worked so hard on this bill. It is a very complicated issue. You have done a spectacular job.

I rise in support of the Mortgage Reform and Anti-Predatory Act of 2007. Each month brings figures, new figures, that reinforce the importance of putting in place a Federal legislative and regulatory framework that prevents us from reliving this crisis in the mortgage markets. I have a keen interest in this legislation because of the disproportionate impact of the foreclosure wave on my home State. California's third quarter foreclosure rate of one foreclosure filing for every 88 households ranked second highest in all States and reflects a near quadrupling of the number reported for the same period last year. Five of the top 10 metropolitan areas in foreclosure filings are in California.

Clearly, we need to prevent the now widespread practice of getting people into loans they simply can't afford. H.R. 3915 takes critical steps in this respect, including, for the first time, imposing a Federal duty of care on all mortgage originators and setting minimum Federal standards on all mortgages. Anchoring the bill's approach are newly established minimum standards regarding the borrower's ability to repay and net tangible benefit to the consumer. This is a sound strategy given that federally regulated mortgage originators have long had to meet similar benchmarks, and not coincidentally, we have seen few problems in that sector of the market.

H.R. 3915 also seeks to reduce the incentives to market inappropriate credit products to borrowers. I am particularly pleased that H.R. 3915, again for the first time, removes the most destructive of such incentives, severing the link between the compensation of the originator and the terms of the loan. Minority borrowers have been disproportionately steered to costly loans, in part because the fees such loans generate for originators are higher than more appropriate products. H.R. 3915 correctly prohibits this practice outright.

I am proud to have been an operational cosponsor of this very ambitious legislation, and I urge my colleagues to support this passage today. However, I would not be telling the truth if I said I lacked any concerns about the potential impact of our ambition over time. Mr. Chairman, I certainly want to thank you, Ranking Member BACHUS, Mr. WATT and others for your diligent work in the manager's amendment to address one such concern that I raised during the Financial Services Committee markup of the bill, namely, the extent to which the assignee liability and remedies this bill creates should preempt State law.

□ 1215

We want to make sure that consumers are protected to the greatest extent possible. Historically, many of these protections have been initiated by States, especially in the subprime market.

With that, I would like to conclude. I would like to be clear that this groundbreaking bill should be passed today, and I urge my colleagues to vote for H.R. 3915.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING), who rises in opposition to the bill.

Mr. HENSARLING. I thank the gentleman for yielding.

Mr. Chairman, I do rise in opposition to what I conclude to be a bad bill for homeowners in America. I do want to acknowledge, though, the efforts of the ranking member to take a bad bill and turn it into a less bad bill. There is no doubt that this Nation faces a great challenge in the subprime market, no doubt about it at all. I am convinced, though, that this piece of legislation is going to make it worse, make the situation worse, and not make it better.

The first thing we need to remember as legislators is first do no harm. What should Congress do to make sure this doesn't happen again? Clearly, there has to be enforcement. There's no doubt that fraud has taken place within the subprime market. But we also need effective disclosure so that consumers know the types of transactions in which they are entering. We need greater financial literacy. I agree, yes, that there must be mortgage broker registration. But what Congress should not do is essentially outlaw the American Dream for many struggling families who may be of low income, who may have checkered credit pasts. By bootstrapping more, more mortgage transactions into the HOEPA standard, that is what this bill does.

Also, by having assignee liability with all these amorphous legal doctrines and phrases that no one understands, you will drive investment away from the secondary market at exactly the time when it is needed more. As the market has perhaps even overcorrected, we need more liquidity. This bill takes us to less liquidity.

I heard from one of my constituents recently from Forney, Texas, a lady by the name of Connie Taylor. She wrote me and said: "If it hadn't been for subprime lending, I wouldn't have my house now. My credit was destroyed because of divorce. I worked hard for 5 years to clean up that credit."

Mr. Chairman, we shouldn't take away homeowner opportunity from Ms. Taylor in Forney, Texas, and all the other millions of people who may have checkered credit pasts. Because of that, I urge that we defeat this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to another member of the committee, the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Chairman, this is an important and urgent and critical bill. All across this Nation, families are struggling and suffering. In my own district of Georgia and in one of my major counties, which is Clayton County, which is one of the leading counties that has had over a 200 percent increase in foreclosures of homes, they have lost over $158 million in terms of their home equity.

Now, Mr. Chairman, the speaker just spoke a moment ago about one of the major features of this bill, and that is trying to grapple with assigning liability. I want to just make sure that everybody understands what we are talking about, because we are going to have that debate. Just what is an assignee? An assignee is a mortgage broker or lender, any loan originator that makes these loans but they don't keep them. They repackage these loans. They often are loans that are delivered to the secondary market to a group of investors and these are parties that own an interest in the loan as it flows through the investment process, and they are known as assignees.

Since these loan originators don't keep the loans they make, they often deliver what the secondary market will buy, with little regard for whether the homeowners can make their payments or afford these loans. Unfortunately, many of them get into these loans on what is known as "teaser rates." They put forward a loan at a very low rate but, unbeknownst to the homeowner, in a short period of time the payment balloons out of kilter and the homeowner cannot afford it. Some people say this is not by design. But in so many cases, they are by design.

So what does that consumer have? He must have some recourse by which to have an ability to stop the foreclosure on his home. That victim has to hire legal counsel to bring separate action against the loan originator. This bill attempts to address that. An assignee liability is an important feature of this measure.

Mr. BACHUS. Mr. Chairman, at this time I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. I thank the gentleman for yielding.

Mr. Chairman, I have a lot of faith in the American people. I believe that, given the proper tools, they can best decide how to spend their money. I also believe they can best determine how to borrow money, just as lenders can best determine who should be lent money. In other words, I trust free choice in the free market. Businesses should be able to take risks just as consumers should be able to. With these risks, come consequences.

However, I understand we have a major problem on our hands, a problem that has spread far beyond the housing market to the heart of the American economy. Some homeowners are struggling to make mortgages they can't afford and financial institutions are stuck holding mortgages that probably will not be repaid. But to say all subprime mortgages are bad is an incorrect conclusion.

Unfortunately, this legislation, Mr. Chairman, will not help those who today are in danger of losing their homes, and it will certainly not help the availability of credit for those purchasing homes in the future. This legislation will not add confidence to the credit market and will not help our housing market find its footing.

I was a small business owner in another life, and I understand when we make certain types of loans cost-prohibitive by adding burdensome regulation or liability, all those loans will simply stop being made. When we ban compensation for certain types of loans, the originators have no reason to make them, especially when they are now subject again to these new regulations and liabilities.

Rather than ensuring this market works smoothly through increased oversight and transparency, we are effectively legislating these loans out of existence and further tightening our credit markets. It is not a good thing for our housing market, our economy, or the free choice of our homeowners.

Unfortunately, Mr. Chairman, I must oppose H.R. 3915, and I urge my colleagues to do the same.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to another member of the committee who has been very active in this issue, the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. First of all, let me thank the gentleman from Massachusetts for leading this important debate in our country. No doubt, the American Dream has always been homeownership and yet, with exploding ARMs, with prepayment penalty and other such exotic products, that dream of homeownership has become an American nightmare.

Mr. Chairman, I'd love to be able to take every Member of this body through a tour of north Minneapolis. There are blocks on my community where every other house is boarded and vacant. The fact is that for the people who have made every single mortgage payment, and never late, they suffer because of this crisis because their home values have been dropping and plummeting.

We have seen our cities suffer, we have seen communities become unattractive nuisances, which were once vibrant places where people owned their own homes and did well. It's not because the market worked right; it's because it worked wrong. It's because of defective financial products, defective financial products which are addressed in this bill.

It's important to understand that this bill is not designed to harm the subprime market. It's designed to reform and correct it and make it work properly, Mr. Chairman. The fact is that it does not help any homeowner who gets into a 227 with a prepayment penalty, who eventually can't pay the mortgage after it explodes in their face and then lose their home. We are not better off because of something that happens like that. That is what this bill is here to stop.

So, Mr. Chairman, let me say that this is an important part of making the American Dream come true for middle-class Americans, making sure that when they buy a home, they can actually keep that home and that it will be a product that can enhance themselves and their families and the communities they come from.

Mr. BACHUS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding.

Mr. Chairman, I would like to thank Chairman FRANK and Ranking Member BACHUS for working with Members from both sides of the aisle to craft legislation to help consumers secure sound mortgages and shine a light on the mortgage practices from day one of the home-buying process. I would also like to associate myself with the remarks of our distinguished ranking member, Mr. BACHUS, and add just a few points.

First, I would like to thank Chairman FRANK for adding two of my bills to the underlying legislation, H.R. 3019, the Expand and Preserve Homeownership Through Counseling Act, which has become title IV of the bill; and H.R. 3017, the Stop Mortgage Fraud Act, which has become section 212 of the bill.

Why are these important? Well, first, for so many, the problems out there could have been avoided through one simple thing: housing counseling. If consumers understand what they are getting into before signing on the dotted line for a mortgage, they would be armed with the ability to make better decisions about a mortgage. Title IV elevates housing counseling within HUD, and the Office of Housing Counseling will expand HUD's capacity to offer grants to States and local agency.

The language also tasks HUD with conducting a study on defaults and foreclosures and launching a national housing outreach campaign so that consumers know where to find a legitimate HUD-certified counselor. They can get the help they need now to buy and keep their homes.

Second, section 212 of the bill authorizes additional funds for the FBI investigators and Justice Department prosecutors to crack down on mortgage fraud. It's no secret that organized crime gangs, many operating in Chicago, have discovered a more lucrative business than drugs. Mortgage fraud scam artists inflate appraisals, flip properties, and lie about information, such as income and identity on loan applications.

Finally, as a former real estate attorney, I know that any mortgage legislation reform should first aim to do no harm. By that, I mean five basic pieces. First, it should preserve access to credit and homeownership opportunities for qualified low- and middle-income borrows; second, facilitate transparency in the mortgage market; third, create a level playing field; fourth, promote strong underwriting standard; and, fifth, foster competition.

Achieving these objectives is critical for both primary and secondary mortgage market participants, from homeowners to investors. Has the bill under consideration fully realized these goals? I would say we have come a long way on mortgage reform, but our work is not finished. Today, several Members will offer amendments to improve the bill: the manager's amendment offered by Mr. FRANK and Mr. BACHUS, and additional amendments by Ms. GINNY BROWN-WAITE, Mr. GARRETT, Mr. HENSARLING, Mr. MCHENRY, Mr. GARY MILLER, and Mr. PRICE. I urge my colleagues to support these amendments. I would like to particularly thank Mr. KANJORSKI for working with me on H.R. 3537, which we will offer as an amendment today.

It's important for future American homeowners and our economy that we put political agendas aside and get this right. Too much action and we worsen the problem; too little action and we allow it to happen again.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), chairman of the Subcommittee on Financial Institutions of the Committee on Financial Services.

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. I thank Chairman FRANK and my colleagues, Congressmen WATT and MILLER, from the great State of North Carolina, who passed legislation in the

State legislature first and helped build a strong bipartisan bill in our committee that passed with a strong vote of 45–19. The economic crisis we are facing is no longer just a subprime crisis, but a credit crisis. Subprime losses are mounting and the economic pain is being felt in communities across this country, as the ripple of foreclosures spreads to neighborhoods and local economies. Economists estimate that between 2 million and 5 million families could lose their homes by the end of 2008, more than the number of families that lost their homes during the Great Depression.

Democrats are working hard to help families stay in their homes and prevent another crisis like this from happening in the future. I submit for the RECORD a list of legislative actions and other actions that Democrats in Congress have passed to help families stay in their homes. With this bill, we take the first step towards reforms for the future. The bill would bring mortgage brokers who are currently regulated on a state-by-state basis under a nationwide licensing registry, establish minimum standards for home loans, and expand certain limits on high-cost mortgages.

□ 1230

It also would prohibit brokers from steering consumers to mortgages they are unlikely to be able to repay. It changes the incentives for all market participants.

The bill would also establish some legal liability for securitizers, but it also provides some liability protection to those companies if they meet certain due diligence requirements in reviewing the loans they are packaging. Any legislation on this issue must strike a very delicate balance that provides consumer protections without unnecessarily limiting the availability of loans to creditworthy borrowers.

I congratulate the chairman for coming forward with a well-balanced bill on a very difficult subject that is incredibly important. I urge my colleagues, we must pass this bill.

Tackling the problem of subprime mortgage reform is like slaying the many-headed Hydra of Greek mythology—unless you go about it the right way, for each head you chop off, two more vicious ones will grow in its place.

I congratulate Chairman FRANK for producing an ambitious and comprehensive bill that deals with many key aspects of this difficult issue.

It is a comprehensive and sweeping reform of the mortgage industry that would require all actors in the mortgage market to operate with the kind of accountability and regard for the consumer's best interest that the best mortgage lenders have always observed.

In this respect, the bill tracks the comments of Federal Reserve Chairman Ben Bernanke, who said in testimony before the JEC that limited and clearly defined assignee liability could prove beneficial.

To do this, the bill preempts State laws in the section dealing with securitizers, reflecting the concern that differing State laws would interfere with oversight of a national market. But it leaves States free to regulate in other areas where States have traditionally led the way in consumer protection for their citizens.

This is a well-balanced bill and I urge my colleagues to support it.

DEMOCRATS IN CONGRESS ARE WORKING TO HELP FAMILIES STAY IN THEIR HOMES

We need to act quickly to stem the tide of foreclosures that could ruin families, communities, and the economy.

The House has passed legislation to enable the FHA to serve more subprime borrowers at affordable rates and terms, attract borrowers who have turned to predatory loans in recent years, and offer refinancing to homeowners struggling to meet their mortgage payments.

Fannie Mae and Freddie Mac are providing much needed liquidity in the prime market right now. We passed a GSE reform bill in the House, but we should also raise the cap on these entities portfolio limits, at least temporarily, and direct all of those funds to help borrowers who are stuck in risky adjustable rate mortgages refinance to safer mortgages.

To make servicers more able to engage in workouts with strapped borrowers, we pushed FASB to clarify what its Standard 140 allows for modification of a loan when default is reasonably foreseeable, not just after default.

Congress should eliminate the cruel anomaly under Chapter 13 of the Bankruptcy Code which allows judges to modify mortgages on a borrower's vacation home or investment property, but not the home they actually live in. This allows families to stay in their home while new loan terms are worked out.

I think we should also eliminate the tax on debt forgiveness, sparing families the double-whammy of paying taxes on the lost value of their homes.

DEMOCRATS IN CONGRESS ARE WORKING TO PREVENT ANOTHER CRISIS

Our regulatory system is in serious need of renovation to catch up to the financial innovation that has surpassed our ability to protect consumers and hold institutions accountable.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER) to speak in opposition to the bill.

Mr. NEUGEBAUER. Mr. Chairman, I do rise in opposition to this legislation, not because of the spirit of compromise and bipartisanship that was used to come to this conclusion, but because of a philosophical difference. I believe that when markets have their ups and downs that it is better for the Federal Government not to try to intervene in those market cycles, so I think it is better to have better information than to have regulation when it comes to the issue of subprime mortgages.

I have a little bit of experience in the mortgage business in that I was a mortgage originator. I was a homebuilder. I have sold and bought loans in the secondary market and I have owned a home and borrowed money on many mortgages. What I know is the system has worked, and we have record homeownership here in America today because we have had one of the most efficient mortgage markets in the world.

But what I do know is an important part of that transaction is that everybody in the transaction understands what the nature of the transaction is.

That is the reason I worked in a bipartisan way with the chairman and ranking member, along with my colleagues Mr. GREEN and Mr. MCHENRY, to make sure that we had a better disclosure piece of information for borrowers to look at, a universal box, if you would, that would allow borrowers to understand all of the terms and conditions of this mortgage and to be able to compare that out in the marketplace. Because what we do know is there is a lot of opportunities for people to get mortgages in this country today, or have been up to this point. What we want to make sure, Mr. Chairman, is in the future that they have that. But when they do take out that mortgage, they have the ability to look at the loan terms, the prepayment penalty, does this loan rate vary, and, if it does, what are the implications to that borrower. Because I believe, as one of my colleagues said earlier, the American people have the ability to make good choices when they are given good information.

So, I am pleased that in this particular piece of legislation there is a disclosure box that will help our consumers do a better job of making that decision in the future.

What I am disappointed in, Mr. Chairman, is the fact that we are going to, I think, put some very restrictive regulation on a market that may limit the ability for people to actually use that disclosure information in the future.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Ms. BEAN), another hardworking member of the committee.

Ms. BEAN. Mr. Chairman, I rise to urge support of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007. As an original cosponsor, I commend Chairman FRANK and Ranking Member BACHUS for how they have drafted and brought this bill to the floor. It reflects highly on the deliberative and bipartisan nature of the Financial Services Committee I serve on.

This is one of the most important and balanced bills we have worked on this year, because Americans' homes are central to their lives. Families save and sacrifice to come up with a down payment towards the most significant and personal investment they will ever make. They raise their families, they dream their American Dreams, and they look forward to a retirement secured by the equity they have established. When house prices fall, when access to credit tightens, those dreams are threatened, and, for some, those dreams are destroyed by foreclosure.

When talking with constituents in my district about the current mortgage market, some are having difficulty making their monthly payments. Most are concerned with being able to sell their home when looking to move. All agree that we need better consumer protections, simpler disclosures, and greater market certainty. This bill does that.

I am pleased that the bill before us includes provisions from my bill, H.R. 3894, the Negative Amortization Mortgage Loan Transparency Act, which will make sure that all borrowers are aware of the impact a loan with negative amortization has by, number one, making sure that it is indicated that it is in the loan; two, a description of what that means, in that it can increase the outstanding principal balance and reduce the borrower's equity in their home; and, third, for first-time subprime borrowers who select this type of loan, they will be required to meet with a HUD-certified credit counselor.

This bill balances access to credit with necessary oversight and industry accountability to ensure renewed investor confidence and make sure that more Americans have access to the American Dream, but they have access to it for the long term. I urge my colleagues to support this bipartisan bill.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. I thank the gentleman for the time. I rise today in support of this bill.

My home State of Ohio has, unfortunately, become the poster child for the mortgage crisis nationally. During the third quarter of 2007, each of Ohio's six largest cities were among the top 30 nationally for foreclosure rates. In Cleveland alone, one of 57 households filed for foreclosure during this quarter.

So while our economy may be recovering from the impact of both the housing slump and the resulting credit crisis, and some places faster than others, it is imperative that we don't impede this recovery; that in our efforts to help the countless consumers and homeowners who have been hit hardest, we don't place the prospects of homeownership and refinancing out of the reach of families financially capable of managing it.

This bill balances that difficult task, and it has happened in an open, bipartisan process of negotiation. Along with the bill offered by Mr. KANJORSKI, this bill adds regulation to the unregulated and restricts predatory products from the marketplace: adjustable rate mortgages with high prepayment penalties, no-doc or low-doc loans, teaser rates that reset only months after initialization, loans without escrows for the most likely to need them.

This bill not only helps do away with these predatory products, but it empowers consumers with the most important tool of all, information. It is stunning to think that more than three in 10 homeowners don't even know what kind of mortgage they have. This bill improves disclosure at the point of sale, and the manager's amendment requires disclosure on periodic billing statements. It is important that people understand what they are getting into and are reminded of it on a regular basis.

On the floor today, we will hear countless stories of heartache and heartbreak of families devastated by the rising foreclosure rates, of Americans losing their claim to the American Dream. This bill can correct that.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. PRICE) who speaks in opposition to the bill.

Mr. PRICE of Georgia. I thank my ranking member for yielding me this time.

I rise in opposition to this legislation, legislation that prompted the Wall Street Journal to say that this bill is essentially a ''Sarbanes-Oxley for housing, an attempt to punish business in general for the excesses of an unscrupulous few.''

Now, while the chairman and ranking member and other members of the staff have done really remarkable work to address some of the most problematic provisions, this legislation still raises serious concerns about the future access to credit. I believe that this bill will lower homeownership. It will harm the American Dream.

A good number of the new duties and requirements which this legislation imposes on loan originators are both vague and highly subject. Words like ''reasonable ability to pay'' and ''net tangible benefit,'' these are required of lenders. This is greater regulation, and, as my friend from Texas said, greater regulation means less liquidity. That means not as much money in the market. That means fewer individuals able to buy homes.

Dr. Ronald Utt with the Heritage Foundation says, ''This provision effectively deputizes the mortgage industry as a quality of life police force by requiring them to pass judgment upon what it exactly is that a borrower intends to do with any additional moneys required by the way of loan refinancing.'' This creates increased litigation.

In fact, when H.R. 3915 was being marked up in committee, I asked him, the chairman himself, if there was a disagreement between the lender and the borrower about whether something achieved a net tangible benefit, where would that disagreement be settled, and he said, ''Like any disagreements in this country, they go to court.''

The legislation also creates a new civil action for rescission, the ability to get all of one's money back. Clearly the result of this will be less availability of money to buy a house for all, but mostly for those at the lower end of the economic spectrum.

Now, there are alternatives. There are positive alternatives: increasing financial literacy, greater flexibility in refinancing, and greater penalties for fraud. And I hope as this process moves forward that we will be able to incorporate those things in a stand-alone bill that increases the ability to achieve the American Dream.

Mr. BACHUS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. MILLER) to speak in support of the bill.

Mr. GARY G. MILLER of California. Mr. Chairman, I rise in support, but I want to express some concerns I have with the bill.

I have been a long-time advocate of antipredatory legislation that will eliminate abusive lending practices while preserving and promoting access to affordable mortgage credit. I want to thank Chairman FRANK for holding true to his commitment to work with me on ensuring that section 123 of the bill will continue to give consumers viable financing options that would not prevent mortgage originators from being compensated.

Under the new language, consumers will continue to be able to obtain and enjoy the benefits derived from having the option to choose zero points or no-cost loans by financing the fees and their costs into the rate of the loan amount. I am also pleased that the mechanism by which the mortgage originators are compensated in such cases has been unaffected.

According to the Mortgage Bankers Association, currently there are slightly more than 6 million nonprime loans. Of these loans, a little over 5 million, or 85 percent of these loans, are basically being paid on time. Yet, according to the MBA, under the legislation, perhaps 50 percent of the nonprime loans would not be made. This means that a significant number of consumers would not be receiving mortgage financing and millions of legitimate loans would not be obtained.

While there is certainly no question that nonprime borrowers have been subjected to abusive lending practices over the years, there is also no question that the vast number of borrowers who were not victims of such practices can become victimized by poorly crafted protective legislation that restricts nonprime credit availability.

Under this bill, it significantly expands the scope of loans that qualify as ''high-cost loans,'' or HOEPA loans. This section of the bill dramatically lowers the point fee calculations, thereby capturing a much larger number of loans than under the previous definition in current law. The expansion of HOEPA to cover the additional loans would provide access to credit to more nonprime borrowers.

During the markup, I attempted to amend this section to ensure that lenders would still provide and borrowers could still obtain HOEPA loans under this bill. My amendment would not have revised the substantive protection provided by HOEPA as amended. Rather, it would have limited the increase in the number of types of loans that are subject to HOEPA.

In addition, the provisions of title III were drafted at least a year before the drafting of titles I and II of this bill, and title III was written without the benefit of enhanced consumer protection provided to nonprime borrowers under the other sections of the bill. I am concerned that the three titles have been joined into a single bill without the respective provisions being synchronized.

By expanding the scope of loans covered by HOEPA, we will further limit liquidity and drastically shrink the availability of mortgage credit. In fact, under current law, the liability and penalties extended to HOEPA loans have made creditors reluctant to make these loans.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GARY G. MILLER of California. I yield to the gentleman from Massachusetts.

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Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

The gentleman from California and the gentleman from North Carolina, who is a prime sponsor of this, have been in conversations.

Mr. GARY G. MILLER of California. That is correct.

Mr. FRANK of Massachusetts. And I believe it is possible to achieve both objectives, that is, flexibility as to mode but the full substantive protection. And so going forward, as this bill moves on and ultimately we get to conference, I do think we can provide flexibility as to method while preserving the full substantive protections. And there will be conversations between the Miller brothers on that subject.

Mr. GARY G. MILLER of California. I thank the chairman. Mr. MILLER and I have discussed this in the last several days, and I know there was not time to deal with this issue effectively prior to it reaching the floor. I have had extended conversations with many Members on your side of the aisle who support the concept I am trying to move forward.

I look forward to working with you before this bill comes back through conference.

Mr. FRANK of Massachusetts. I now yield to another member of the subcommittee who has been very much involved, particularly in the area of manufactured housing, as well as others, the gentleman from Indiana (Mr. DONNELLY).

Mr. DONNELLY. Mr. Chairman, I rise in support of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act. My home State of Indiana has been one of the hardest hit by foreclosures. We rank well above the national average with 3 percent of our loans in foreclosure.

Subprime loans, which have affected many of our Nation's families, account for nearly half of our States' foreclosures. Earlier this year, it was reported in various parts of our area, 18 percent of all subprime loans were past due. We know all too well how the subprime fallout is weighing down our economy and spreading to others. We must act now.

I want to thank Chairman FRANK, my colleagues on the Committee on Financial Services, Mr. WATT and Mr. MILLER, for working with consumer groups and industry representatives alike to produce a good bill that will ensure American families have access to responsible and affordable mortgage options while improving the health of the marketplace. I urge my colleagues to vote in support of H.R. 3915.

Mr. BACHUS. Mr. Chairman, may I inquire as to the remaining time.

The CHAIRMAN. Both sides have 8 minutes remaining.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. ROSKAM) to speak in opposition to the bill.

Mr. ROSKAM. I thank the gentleman for yielding.

Like many others, I very much appreciate the tone and the effort of the chairman and the ranking member to come to terms with a very difficult problem that is facing our country, and that is the subprime mortgage crisis and the ripple effect, the profound ripple effect it is having throughout the economy.

My sense, though, is that while there are some very good elements in the bill, I appreciate the fact that it is prospective, I appreciate the fact that it is not a bailout, and I appreciate the fact that its focus is limited to subprime mortgages and not prime mortgages, there is an element that is of enough concern to me to come to the floor and bring it to the House's attention.

I am not unique in bringing it to the House's attention, but I urge a real sense of caution, and I think we can do slightly better, and that is the ambiguity of some of the phrases and definitions in the bill. The gentleman from Georgia referenced these in his remarks.

But when regulatory language, as this is, has words like ''appropriate'' without further definition; ''ability to repay'' without further definition; and ''net tangible benefit'' without further definition, I think it is a weakness in the bill, and I think it is a fatal flaw in the bill.

My hope is that these ambiguities will be cleaned up. I am not one that says we necessarily need to yield this turf to the regulators. I think we as Members of Congress have that ability and that responsibility to define these terms. Because if we don't, I think what will happen is that capital that is currently available to subprime borrowers will become unavailable to some subprime borrowers.

There is language that creates the purported safe harbor in the bill, but it is a safe harbor that does not end with a period at the end of the sentence, essentially. It is a safe harbor that has a comma at the end and is simply a rebuttable presumption. So safe harbors are mostly safe, but not entirely safe.

I think Americans like to be governed with a light touch and not a heavy hand, and I hope that we can revisit this bill when it may come back from the other body.

Mr. FRANK of Massachusetts. Mr. Chairman, I now yield to another member of the committee who has been active on this issue, the gentleman from Connecticut (Mr. MURPHY), for 2 minutes.

Mr. MURPHY of Connecticut. I thank the gentleman for yielding.

I thank Chairman MILLER and Mr. WATT for their leadership in bringing this bill through the committee. I want to draw attention to one provision of the bill and underscore the importance of the provisions here that prohibit steering of borrowers into higher-cost mortgages than they would otherwise qualify for.

This mirrors legislation that I introduced earlier this year, H.R. 3813, the Mortgage Kickback Prevention Act. The bill before us prevents mortgage originators from inappropriately steering consumers into higher-cost loans than they would otherwise qualify for.

This is a commonsense measure, and it is made more reasonable by the restriction to apply this only to subprime loans. To me and my constituents, it is pretty simple. Brokers and mortgage originators shouldn't have an incentive to put borrowers into more expensive loans than they would otherwise qualify for.

Frankly, as we move forward, I think it is important to understand that disclosure doesn't do the entire trick here. Most borrowers have no idea what it means when their broker discloses that they are going to pay a yield-spread premium amidst the mountains of paperwork that you are required to fill out for a residential mortgage. For these borrowers who have the least amount of leverage in the process, we need to have some clear lines. This bill does that.

That is why it makes sense to simply say the brokers and originators cannot inappropriately put borrowers into loans they otherwise would not qualify for. This Congress has responsibility, as we are doing today, to reset the rules.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Connecticut. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. The gentleman has been very tough on this issue, appropriately, and he is right.

Some people can read ambiguity into 2 plus 2, and we will deal with that. We are lawyers. We are into redundancy. So in the colloquy I will be having with the gentleman from North Carolina (Mr. MILLER) we will reaffirm the point that the gentleman from Connecticut is making. I guarantee that by the time this bill comes out of conference, no one will be able to raise any doubt about the prohibition on anybody being compensated for costing the consumer more.

Mr. MURPHY of Connecticut. I thank the gentleman for that. He has been very strong on this from the beginning. This prohibition on steering is a small, but very important, piece of the puzzle of solving the problem of the subprime crisis and making sure that it doesn't occur again in the future.

Mr. BACHUS. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. MCHENRY) to speak in opposition to the bill.

Mr. MCHENRY. I thank the ranking member for yielding time, and I appreciate his leadership and friendship on the committee. He has worked very hard on this issue, as has the whole committee. But we have come to different conclusions on this.

I think there are some admirable parts of this legislation. In particular, the addition that the ranking member was able to make in consultation with the chairman on licensing of mortgage brokers. I think that is helpful and positive and makes consumers more aware of people they are dealing with.

I also believe the Green-McHenry-Neugebauer amendment that we were able to put in place in the committee is very help to the marketplace. It gives borrowers more understanding of the financial product they are about to take part in, the financial transaction they are about to take part of in. I think informed consumers are better off than uninformed consumers. Financial literacy is key; and, therefore, the process of counseling which is within this bill is helpful.

But in the end, this is about homeownership. It is about the opportunity for families to get a home of their choosing. It is about families making a financial decision for themselves, not Washington, D.C. telling them what products they can and cannot get. Unfortunately, that is what this bill does.

This bill will limit homeownership and limit the opportunities that families have by limiting the mortgage choices in the private sector and in the marketplace.

Furthermore, it does nothing to fix the current crisis we are in. Let me repeat that: this bill will do nothing to fix the current mortgage crisis we are facing. In fact, rather, it will deepen the crisis we are facing by limiting people's opportunities to refinance or finance their home.

Let me give you a couple of examples. This bill I believe will encourage more litigation and have a chilling effect on the secondary markets. Therefore, less money will be available for people to get mortgages.

Second, it will limit the loan terms available. In fact, it limits the ability for people to finance the points and fees and closing costs of many mortgage products and bans prepayment penalties.

So, in essence, if somebody currently has a prepayment penalty in their mortgage that they have and they seek refinancing, they will be unable to finance that prepayment penalty that they currently have, thereby locking them into a cycle of debt and foreclosure.

I believe this bill is harmful to long-term homeownership in America that is at an all-time high. I think what we should be doing is encouraging homeownership in this country and making more opportunities available to get the credit that they need in order to get a home for their families.

So I oppose this bill on very simple grounds: that it will limit homeownership and limit the opportunities and options that Americans have. With that, I encourage my colleagues to vote ''no'' on this bill and help homeownership in America.

Mr. FRANK of Massachusetts. Mr. Chairman, I now yield to a man who is going to have a lot of free time after today because much of his life in the last year has been helping put this bill together in a very masterful way, the gentleman from North Carolina (Mr. MILLER), for 4 minutes.

Mr. MILLER of North Carolina. I dearly wish that this bill was the one being described by so many people on the other side of the aisle. That sounds like a really tough bill. And this bill, I hope, will become tougher as we go along.

I agree with many over there who said that they support the idea of homeownership and want to make sure that there is a mortgage market that lets people buy homes.

Mr. Chairman, the mortgages we are talking about have nothing to do with homeownership. According to the mortgage bankers themselves, who oppose this bill, 72 percent of subprime loans are refinances, not purchase money mortgages. And only about one in 10 subprime loans is to buy a first home. Lehman Brothers says that 30 percent of the subprime loans entered last year will result in final foreclosure, a family being turned out on the streets by a sheriff because their home was sold at a foreclosure auction at the steps of the courthouse.

Do the math. One subprime loan in 10 helps people buy a home, a first home, get into homeownership. Thirty percent will result in foreclosure. The loans that we need to get at, we need to prohibit, are costing Americans homeownership, not helping with homeownership.

Now, several speakers have said that they think the consumers should make choices, there should be a variety of choices available to consumers. Sometimes they say this bill will shut down market innovation. Well, Americans are for innovation, Mr. Chairman, just as they are for reform. Americans are fundamentally reformers so politicians have figured out to call everything they do a ''reform,'' however obviously contrary to the public interest it is. And now American business has learned to call everything they do an ''innovation,'' regardless of how bad it hurts consumers.

I can think of many wonderful innovations. When we think of an innovation, we think of a scientist in a lab coat coming up with new products.

Mr. Chairman, I am now the age my father was when he died of a heart attack in 1965. There wasn't a thing we could do to help people with heart disease in 1965. But I am on a cholesterol medicine because I inherited from my father high cholesterol that I hope will allow me to outlive my father. I think that drug is an important innovation, and I am glad we made that innovation.

Mr. Chairman, this necktie is an innovation. Ten years ago, you could not buy a silk necktie that was stain resistant. And for those folks like me who tend to miss their mouth from time to time, the cost in new neckties in any given year was hundreds of dollars. But this tie has a nanotechnology process that causes liquids to bead up and roll off rather than soak in and stain. This necktie is an important innovation to me.

But what on Earth do we mean when we say that a mortgage is innovative? It means simply that there is no end to the variety of terms, there is a proliferation of indecipherable terms that are not designed to help consumers.

Alan Greenspan called them ''exotic loans.'' Others have called them ''toxic loans.'' The innovation is not really about allowing consumers to tailor narrowly the loan they get to their specific circumstances. The late Ned Gramlich, a well-regarded former Federal Reserve Board governor, asked why was it that the riskiest loans were being sold to the least sophisticated consumers. It was a rhetorical question. He knew the answer. He knew those loans were being sold to people to take advantage of them, to separate from middle-class homeowners more and more of the equity in their home, to trap them in a cycle of having to borrow and borrow again, and every time they borrowed, losing more of the equity in their homes.

Some of the other speakers have talked about the importance of refinancing out. Mr. Chairman, a mortgage system where people have to borrow money to pay off the mortgage they are in now is not a mortgage system that works.

Mr. BACHUS. Mr. Chairman, at this time I recognize the gentlewoman from West Virginia (Mrs. CAPITO) for 3 minutes.

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Mrs. CAPITO. I would like to thank the gentleman from Alabama for recognizing me and yielding me the time, and I greatly appreciate the leadership of the chairman and ranking member on the Committee of Financial Services for bringing this important legislation before the House today.

The legislation before us is a bipartisan response to a problem that is affecting every congressional district across this Nation, the rising number of foreclosures and a large number of impending alternative mortgage resets, combined with a large number of delinquencies in mortgage payments. It is very important for Members to look at this legislation in its entirety.

When combined on the whole, the components of this legislation will provide consumers with the necessary tools and protections to hopefully avoid another housing crisis like we are experiencing, but also realize the importance of not clamping down so hard, and we have heard some folks express concern about this, that we still have the innovations and we still have the ability of subprime mortgages for those who are now living because of the benefits that subprime benefits allows them.

In this bill, we require the registration of all originators under a national registry will be established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. These new licensing requirements, coupled with the national registry, will make it much more difficult for fraudulent originators to bounce from State to State. This is a problem my State of West Virginia has expressed concern about.

Another component that Mrs. BIGGERT talked about in her statement is to provide consumers with greater access to housing counseling. The availability of counseling will help individuals learn and understand the complicated financial disclosures, all of the paperwork and technical languages that come along with securing and purchasing a mortgage.

Another important reform that was adopted during our committee markup is the inclusion of a one-page estimate outlining the total cost and potential changes in the cost for the consumer over the life of the mortgage product. I have been lucky enough to be a homeowner, and I know when we go in to close at the time to secure our mortgage, the amount of paper and signatures that you have to go through to try to figure out what you are doing is very intimidating. So to have this one-page disclosure I think gives the consumer the ability to have this information right in front of them so they can know what they are getting into and making this process easier.

This legislation also provides more certainty and clarity for the liability of the entities that purchase mortgages on the secondary market.

I would like to particularly thank the chairman of the committee for helping me work through the technicalities of this language to explain to my local newspaper and my local consumer advocates what this language means in the bill. We live in a national economy and must recognize the need for consistency across the board.

In addition to the bipartisan underlying legislation, we will also be considering I think a very important addition to this bill, an amendment I have worked on with Mr. KANJORSKI and Mrs. BIGGERT that will provide additional protection for consumers. This amendment will now require escrow accounts for some mortgages and will provide borrowers with the budgeting tools necessary to properly manage taxes and insurances on their property. This amendment will also include Federal appraisal standards with serious penalties.

I fully support this bill and thank the chairman and the ranking member.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. FRANK of Massachusetts. How much time do I have remaining, Mr. Chairman?

The CHAIRMAN. The gentleman has 2 minutes.

Mr. FRANK of Massachusetts. I yield myself my remaining time to enter into a colloquy with my colleague from Alabama.

Mr. Chairman, the gentleman from Alabama, this has been a collaborative effort in many ways. We have had some disagreements, but there has been a lot of agreement. And the gentleman from Alabama in particular took the lead in the language that went into the bill in committee and is being refined here dealing with nationwide registration requirements, a prerequisite for any kind of enforcement. Now, I appreciated the work he did and the committee benefited from it.

Community banks are obviously very important in this. And, indeed, if only community banks had made loans for mortgages, we wouldn't have a crisis. But we don't want to interfere with their ability to help going forward.

I would just yield to the gentleman in a minute to have him give his interpretation. My view is, and I defer to him as the spokesperson for the committee on this, because we are here talking about language which he developed and which we incorporated. We do have some regulatory requirements here that would affect not just the brokers but community banks. And I assume my colleague from Alabama, in drafting this, certainly intended and we meant to do this in the language, that the regulatory agencies would be able to show some flexibility in terms of the impact of these requirements on our community banks.

I would yield to my friend from Alabama on that point.

Mr. BACHUS. The chairman is correct. Section 107 was designed and implemented to give the Federal bank regulators flexibility in implementing the national registry. And it is the intention of the committee, of the entire committee, that, as they do this implementation, that they give proper consideration to its impact on small financial institutions, smaller impact, and that they try to minimize that impact.

Mr. FRANK of Massachusetts. I thank the gentleman. In my closing seconds, let me just reiterate an important point.

Attorneys General have been concerned about their ability to prosecute and defend against certain abuses. Thanks to the gentleman from North Carolina (Mr. WATT), the effective date of this bill and all of its provisions will be the date of enactment. What that means is that any transaction that occurred before the bill becomes law, any loan that was made, will not be subject to the preemption. So we do want to reassure any law enforcement official out there that their rights to go against people who have been abusive will in no way, up until new loans are made, be in any way diminished.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in strong support of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, introduced by my distinguished colleague from North Carolina, Representative BRAD MILLER. This important legislation will address and reform the mortgage lending processes "to avert a recurrence of the current situation with rising defaults and foreclosures, especially in the sub-prime market."

Mr. Chairman, it is essential that this Congress protects the needs of American families and nothing is more imperative than ensuring that all people have a home. Recent studies have reported that 92 percent of the American population has at some point feared being homeless and this legislation is an important step in alleviating those fears. The current lending crisis must be addressed.

The Federal Government must play an important role in revitalizing and restoring opportunities for Americans to reach the American dream of owning a home. One of the major contributors of the affordable housing shortage is the sub-prime lending crisis that has caused serious negative economic and social consequences that resulted from too little regulation. Because of the lack of regulation by the Federal Government, many loans were accompanied by fraud, inadequate information and other failures of responsible marketing. Foreclosure rates are at 14 percent and are rising at an alarming rate and homeowners across America are losing their homes. Throughout the country, homeowners are surprised to find out that their monthly payments are spiking and they are struggling to make these increasingly high payments.

The sub-prime mortgage crisis has impacted families and communities across the country. Home foreclosure filings rose to 1.2 million in 2006—a 42 percent jump—due to rising mortgage bills and a slowing housing market. In Iowa, 3,445 families experienced foreclosure last year, up 64 percent from 2005.

Nationally, as many as 2.4 million sub-prime borrowers have either lost their homes or could lose them in the next few years.

The Democratic-led House Financial Services Committee has been intently focused on this and other issues and is working toward a balanced solution that helps stabilize the mortgage market, stops abuses, preserves access to credit, and aids stable homeownership.

Creating more affordable housing opportunities will increase more job opportunities for the people of Houston and Harris County. We hope that an increase in affordable housing and job opportunities will also reduce the high rates of homelessness among Houston residents. As you may know:

Houston's homeless population increased to approximately 14,000 in 2005 before Hurricanes Katrina and Rita.

Hurricane evacuees remaining in the Houston area could result in the homeless population increasing by some 23,000 to 30,000.

Houston's homeless population includes an estimated 28 percent of American Veterans.

Some 59 percent became homeless because of job loss.

A full 10 percent of the city's homeless are believed to be able to return to self-sufficiency with 12–18 months of assistance and affordable housing.

Shelter and housing for Houston's homeless currently is reported at around 4,235 beds and or units, leaving 10,000 on the streets.

I have cosponsored a number of bills to address the housing crisis in this country. In the 109th Congress I cosponsored H.R. 1182, the Prohibit Predatory Lending Act, and H.R. 1994, the Predatory Mortgage Lending Reduction Act. I will continue to support legislation to address the housing crisis facing the people of this country.

This important piece of legislation will ''create a licensing system for residential mortgage loan originators, establish a minimum standard requiring that borrowers have a reasonable ability to repay a loan, and will attach a limited liability to secondary market securitizers.'' This is extremely significant in the sense that it will ensure that Americans who dream of home ownership will not engage in loans that they will be unable to repay. It will enhance and expand consumer protections against ''high-cost loans.'' It will protect renters of foreclosed homes and establish through the Department of Housing and Urban Development an Office of Housing Counseling that will ensure that consumers will be fully aware of all possible avenues.

While this legislation is a step in the right direction, we must ensure that this legislation does not hurt those who it is intended to protect. We must ensure that families with a less-than-perfect credit history are not denied outright their dream of home-ownership and that lenders do not abuse their discretionary powers. This legislation creates a standard licensing system for residential mortgage loan originators that will ensure a consistent rubric for loans and protect American families from would-be predatory lenders. It further expands consumer protections from high-cost loans by: prohibiting the financing of points and fees; prohibiting excessive fees for payoff information, modifications, or late payments; prohibiting practices that increase the risk of foreclosure, such as balloon payments, encouraging a borrower to default, and call provisions, and requiring pre-loan counseling. This is an unprecedented step forward for hard working Americans with the dream of home-ownership and I applaud this legislation for this significant first step towards helping Americans realize their dreams.

Finally, let me acknowledge the concerns of strong advacates for the housing needs of the vulnerable—ACORN and the NAACP, among others, and I look to working on changes in this legislation as the bill moves to address their concerns.

Mr. CAPPS. Mr. Chairman, I rise today in strong support of the Mortgage Reform and Anti-Predatory Lending Act.

This bill continues the Democratic-led Congress' efforts to protect and promote the American Dream of homeownership.

We can now see clearly that questionable and even discriminatory lending practices were a part of the real estate ''boom'' in our country.

In my district, these unscrupulous practices will result in about a half billion dollar loss in home equity for my constituents.

This translates into over 80,000 homes devalued and the certainty of foreclosure for many.

That is 80,000 families that entered into their mortgage contracts in good faith.

They did not anticipate that all of their hard work would be wiped out with one interest rate hike.

Many nonprofits and other economic development groups in my district, like the Cabrillo Economic Development Center, have stepped up to help these families restructure their loans and keep their homes.

And I am happy to say that today the House will do its part to stop harmful predatory lending practices.

This bill will create minimum standards for mortgage loan originators, and require the determination that a consumer has a reasonable ability to repay their loan.

Importantly, it also discourages ''steering'' a consumer toward a higher-cost loan when they in fact qualify for a lower interest rate.

Mr. Chairman, I urge my colleagues to support this important bill and put our families back on track to achieving the American Dream.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise in support of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007.

H.R. 3915 restricts the harmful mortgage lending products that have wreaked havoc on our local communities.

In my district in Orange County, California, the cities of Anaheim and Santa Ana are feeling the effects of irresponsible lending practices that resulted in numerous foreclosures.

One-third of the homes on the market in those cities are available because they were foreclosed on.

Borrowers who will only purchase a home once or twice in their lifetimes should not be blamed for the current situation.

Through the licensing of mortgage loan originators, the establishment of loan origination standards, and the enhancement of consumer protections, H.R. 3915 takes appropriate steps to stop predatory lending practices without placing an undue burden on responsible mortgage originators and lenders.

These new standards will provide needed safeguards without preventing potential home-buyers from obtaining loans.

Eventually, the financial services industry will recover from the current mortgage crisis, and we must ensure that the predatory practices of the past are not repeated in the future.

Mrs. JONES of Ohio. Mr. Chairman, I rise in support of H.R. 3915, The Mortgage Reform and Anti-Predatory Lending Act of 2007. For the past 8 years I have introduced the Predatory Lending Practices Reduction Act, which seeks to establish a mortgage licensing system for mortgage brokers. It also provides grants to nonprofit community development corporations to educate and train borrowers and community groups regarding illegal and inappropriate predatory lending practices.

I am pleased that H.R. 3915 incorporates language from my bill that establishes a nationwide mortgage licensing system and registry to license and register individual mortgage brokers, and register bank employees that originate mortgages. I believe that brokers should be prohibited from being the original provider of loans, loan originators, without having first obtained, and continue to maintain, registration within the NMLSR.

This legislation has been warranted for a very long time. I have been preaching about this issue since I came to Congress as a member of the Financial Services Committee. We are facing a national housing crisis and without this legislation, the problem will only get much worse.

The nonprofit Center for Responsible Lending projects that as this year ends, 2.5 million households in the sub-prime market will either have lost their homes to foreclosure or hold sub-prime mortgages that will fail over the next several years. These foreclosures will cost homeowners as much as $164 billion, primarily in lost home equity.

In Ohio, and particularly in my congressional district, the problem has gone from bad to worse with nearly 42 percent of loans generated in the past year being sub-prime, and an estimated one in six sub-prime loans in the district will ultimately end in foreclosure. These sub-prime foreclosures will result in price declines for more than 198,000 surrounding homes, with homeowners in my district losing about $249 million in equity.

Mr. Chairman, I commend Chairman FRANK and the Financial Services Committee on their hard work and commitment to this issue. I am glad to see this bill on the floor today, and I urge my colleagues to join me in supporting this meaningful and necessary legislation.

Ms. WATERS. Mr. Chairman, I rise in support of the Mortgage Reform and Anti-Predatory Lending Act of 2007. Each month brings new figures that reinforce the importance of putting in place a Federal legislative and regulatory framework that prevents us from reliving this crisis in the mortgage markets. I have a keen interest in this legislation because of the disproportionate impact of the foreclosure wave on my home State. California's third-quarter foreclosure rate of one foreclosure filing for every 88 households ranked second highest among all States, and reflects a near quadrupling of the number reported for the same period last year. Five of the top 10 metro areas in foreclosure filings are in California.

Clearly, we need to prevent the now widespread practice of getting people into loans they can't afford. H.R. 3915 takes critical steps in this respect, including—for the first time—imposing a Federal duty of care on all mortgage originators and setting minimum Federal standards on all mortgages. Anchoring the bill's approach are newly established minimum standards regarding the borrower's ability to repay and net tangible benefit to the consumer. This is a sound strategy given that Federally regulated mortgage originators have long had to meet similar benchmarks, and not coincidentally, we have seen few problems in that sector of the market.

H.R. 3915 also seeks to reduce the incentives to market inappropriate credit products to borrowers. I am particularly pleased that H.R. 3915—again for the first time—removes the most destructive of such incentives, severing the link between the compensation of the originator and the terms of the loan. Minority borrowers have been disproportionately steered to costly loans, in part because the fees such loans generate for originators are higher than more appropriate products. H.R. 3915 correctly prohibits this practice outright.

I am proud to have been an original cosponsor of this ambitious legislation, and urge my colleagues to support its passage today.

But I would not be telling the truth if I said I lacked any concerns about the potential impact of our ambition over time. Mr. Chairman, I do want to thank you and Ranking Member BACHUS for your diligent work in the Manager's Amendment to address one such concern I raised during the Financial Services Committee markup of the bill, namely, the extent to which the assignee liability and remedies this bill creates should preempt State law. We want to make sure that consumers are protected to the greatest extent possible—and, historically, many of these protections have been initiated by States, especially in the subprime market. But we also don't want to shut down the secondary mortgage market that has critical to expanding homeownership nationally.

I appreciate the effort that the Manager's Amendment makes to better strike this delicate balance. The Manager's Amendment now clarifies that the bill does not preempt state laws such as fraud and civil rights statutes. In particular, I appreciate that the Manager's Amendment makes crystal clear that securitizers will be held to account when they directly participate in a fraud—as in the egregious First Alliance case I mentioned at Committee markup. However, attorneys who have been working on predatory lending issues in my district and State for decades, continue to be concerned that the legal meaning of this provision is unclear. As such, federal courts may impart this meaning in ways that roll back important consumer remedies under State law.

This, in turn, raises the question of whether we have yet reached the right balance of Federal rights and remedies in the bill, given that we may be displacing a lot of State and private activity in this financial sector. Certainly, national organizations representing consumers remain concerned about this, and many have declined to endorse the bill. As you have noted, Mr. Chairman, that industry groups seem equally ambivalent about the bill suggests that perhaps we are approaching the proper ''unhappiness quotient'' among the stakeholders. As this bill moves to the Senate and to conference, though, I urge that continue to take seriously and re-examine issues surrounding preemption and strength of remedies.

To conclude, however, I want to be clear that I believe this groundbreaking bill should be passed today. Accordingly, I urge my colleagues to vote for H.R. 3915. Thank you again, Mr. Chairman, for all of your work on this bill.

Mr. JOHNSON of Georgia. Mr. Chairman, I rise today in support of Representative WATT's amendment as a way to strengthen the enforcement provisions of this mortgage bill. Subprime lending has devastated communities throughout Atlanta and my district. Thirty-five percent of all loans made to my constituents are subprime loans—that's much higher than the national average of twenty-eight percent. Seventeen percent of those loans result in foreclosure, which means, in DeKalb County, nearly 1,000 families enter foreclosure each month. In my entire district, it means my constituents who don't lose their homes will still lose nearly $200 million in home equity as foreclosures decrease the values of surrounding homes. Unfortunately, all indicators point to foreclosures continuing to rise well into 2008. These foreclosures have a devastating effect on the families in my district who work hard to buy a house. And they aren't just the result of a downturn in the housing market or because people don't pay their bills on time. No, my constituents have been victims of widespread mortgage fraud and predatory lending. Chairman FRANK's bill takes a step in the right direction toward helping my constituents. And this amendment and the others submitted by Representatives WATT and MILLER will help to make this bill stronger so that Americans are protected from lenders and brokers who prey on low-income and minority populations. With stronger enforcement mechanisms, this bill will help my constituents keep their hard-earned roofs over their heads. I urge my colleagues to support Mr. WATT's and Mr. MILLER's amendments and Chairman FRANK's bill and put a stop to predatory lending.

Mr. HALL of New York. Mr. Chairman, today, during the consideration of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007 I voted against the Motion to Recommit forthwith. If passed, that motion would have required anyone seeking to get a residential mortgage loan to produce one of four forms of identification prior to approval; a Social Security card and picture ID, a Real ID drivers license, a U.S. or foreign passport or an ID card issued by the Department of Homeland Security.

I am opposed to giving illegal immigrants access to mortgages. However, the language contained in the Motion to Recommit forthwith would not only have failed to meet the goal of denying mortgages to illegal immigrants, but it could have actually made it more difficult for legal citizens of New York and other states to obtain these same housing funds. The motion could have made it more difficult for people from states that have not yet adopted Real ID standards or do not have ready access to other documentation to qualify. However; any illegal immigrant with a passport from their native country would have no difficulty in using that passport to get a mortgage. That is not the kind of requirement we want or need.

I believe it is important that Americans have the opportunity to qualify for mortgages. Owning one's home is a vital part of the American dream. I cannot and will not support legislation that will make it more difficult for citizens and legal immigrants to get mortgages, and easier for illegal immigrants to do so. This motion would have done just that, and as a result I could not support it.

Mr. LANGEVIN. Mr. Chairman, I rise in support of the Mortgage Reform and Anti-Predatory Lending Act, which will bring greater transparency to lending practices nationwide. The housing market is under significant stress, and many families cannot keep pace with ballooning mortgage payments.

Unconventional mortgages have left countless Americans facing foreclosure. Unless we act soon, millions more may lose their homes. With this bill, we combat unscrupulous lending practices and bring transparency to the process by requiring mortgage originators to be licensed and mandating full disclosure of loan terms. Perhaps most importantly, mortgage originators must certify that consumers have a reasonable ability to pay back loans and that they are not predatory in nature. We have seen too many lenders steer consumers into loans they cannot afford.

This measure will address persistent problems in the housing market and bring financial stability to families. I thank Chairman FRANK for his leadership, and I urge support for the bill.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of the ''Mortgage Reform and Anti-Predatory Lending Act of 2007.'' Homeowners in Colorado and nationwide continue to face an impending crisis. Millions of borrowers have found themselves with unmanageable loans that not only threaten the financial security of their families and communities, but also undermine the Nation's economy as a whole. Passage of this bill will address irresponsible business practices in the mortgage industry that have played a part in creating this situation.

There are grave problems in the housing market. Foreclosure rates are rising, housing prices are stagnating and too many Americans are overwhelmed by the rise in their monthly payments. And housing is not the only sector of the economy that has been affected by the tremors whose epicenter is located within the financial institutions involved in mortgage funding.

This bill responds to problems that have come to light as those tremors have spread. Its main benefit may be to reduce the likelihood of similar shocks in the future, by reforming mortgage lending practices to soften the impact of rising defaults and foreclosures, especially in the subprime market.

The bill establishes a Federal duty of care for mortgage originators. It prohibits steering consumers to mortgages with predatory characteristics and other abusive practices in the subprime mortgage market, and establishes a licensing and registration system for loan originators. It also expands and enhances consumer protections for ''high-cost loans'' under the Home Ownership and Equity Protection Act; requires additional disclosures to consumers, and includes protections for renters of foreclosed properties.

I am particularly pleased that this legislation establishes an Office of Housing Counseling within the Department of Housing and Urban Development (RUD). This provision will provide financial and technical assistance to States, local governments, and nonprofit organizations to establish and operate consumer education programs. These programs will both enhance the consumer's financial literacy and also provide people with better information about mortgage and refinancing opportunities.

I do have some concerns about the bill, particularly regarding the extent to which its preemption provisions could interfere with implementation of State laws regarding loan liability. Fortunately, this risk has been reduced through adoption of an amendment to narrow the preemptive effect of the bill. It is my hope that these provisions can be further reformed in the Senate and conference committee before the bill is sent to the President.

I am also concerned about the possible effects of an amendment offered on the House floor that could have created a major new liability for mortgage originators, assignees, and securitizers by establishing a ''pattern and practice'' violation with penalties of not less than $25,000 per loan and $1 million for the violation itself. As I understand it, the amendment would characterize as a ''pattern or practice'' as few as two loans, which might mean that a lender who has acted in good faith in making a loan may be found to have violated this very subjective standard—with massive liability. I found persuasive the argument that such a potential for increased liability could have a chilling effect in the secondary market, making liquidity less available. Fortunately, this amendment was not adopted.

Mr. Chairman, this bill is a good measure that deserves support. Further legislation may be required to address our Nation's mortgage crisis and assist families in Colorado and across the country in restructuring loans and recovering from this financial disaster, but this bill is a necessary part of the response to problem that might have terribly negative impacts on our economic future—and I urge its passage.

Mr. MCNERNEY. Mr. Chairman, we are in a housing crisis that has led to instability and increases in criminal activity that is destroying our communities. While some people took out risky loans that they could not afford, many were caught up in exaggerated promises and the predatory lending practices that blossomed in recent years.

Stockton, California, in my congressional district, is unfortunately at the center of it all. One out of every 31 homes in Stockton faces foreclosure—the highest rate in the country.

While there is no magic bullet to solve the problems in the housing market, the bill we are voting on today is an important part of our nation's comprehensive response to the surge in foreclosures.

We are establishing common-sense homebuyer protections to ensure that responsible real estate professionals can provide safe mortgage products.

Owning one's own home is the American Dream and promoting responsible home ownership is a policy that makes sense. In Congress, I will continue working for sensible policies to encourage home ownership and the stable communities it creates.

I am proud to support this bill, and I urge my colleagues to do the same.

Mr. CONYERS. Mr. Chairman, I rise in support of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, legislation to combat abusive practices and improve oversight of the mortgage industry.

The Mortgage Reform and Anti-Predatory Lending Act of 2007 will reform mortgage practices in three areas. First, the bill will establish a Federal duty of care, prohibit steering, and call for licensing and registration of mortgage originators, including brokers and bank loan officers. Second, the new legislation will set a minimum standard for all mortgages which states that borrowers must have a reasonable ability to repay. Third, the legislation attaches limited liability to secondary market securitizers who package and sell interest in home mortgage loans outside of these standards. However, individual investors in these securities would not be liable. Finally, the bill expands and enhances consumer protections for "high-cost loans" under the Home Ownership and Equity Protection Act and includes important protections for renters of foreclosed homes.

Passage of H.R. 3915 could potentially help hundreds of thousands of homeowners across this Nation who are facing home foreclosures, and need more flexible terms in paying back their mortgages given that we are experiencing increased job layoffs; especially in Detroit and the State of Michigan. According to the Michigan Association of Realtors, the State of Michigan is in deep systematic recession. The auto industry has lost tens of thousands of jobs in the past few years, and there are more cuts to come.

In fact, Michigan saw 11,554 new foreclosures filings in February 2007. That put one of every 366 Michigan households at risk of losing a home because of missed mortgage payments. The Wayne County/Detroit area reported 6,653 new foreclosures in January of 2007, more than twice the number reported in December 2007. That amounts to one new filing for every 124 households. H.R. 3915 would create a more progressive and equitable home mortgage loan policy that will help scores of working families across this Nation and Michigan keep their homes; and prevent them from becoming homeless. This legislation will address the ongoing practice of routing unsuspecting borrowers into loans that are not appropriate for their needs and that they can't afford. H.R. 3915 will also stop the practice of creative loan financing by unscrupulous brokers who may unnecessarily increase the fees and costs to write the loan.

Treasury Secretary Henry Paulson called the housing downtown "the most significant current risk to the U.S. economy." Last week Federal Reserve Chairman Ben Bernanke said the situation will get worse before it gets better. Many believe that faulty mortgage lending practices have precipitated this credit crisis, and that the situation will get worse before it gets better. Therefore, I believe that this legislative remedy is a much needed remedy in a time of crisis.

I want to thank my friend Chairman BARNEY FRANK and my Republican colleagues for their bipartisan work to create an outstanding piece of legislation that moves us in a proactive direction. In conclusion, let me say that this comprehensive bill brings sweeping and much-needed changes to the mortgage market. It will reform many of the flaws in the current system that has led to the mortgage foreclosure crisis. The American people have asked us to provide the tools and oversight necessary to address this crisis and we have been able to achieve that goal. I whole heartedly give my complete support to this legislation. It is my belief that this bill reflects the principles of the Democratic Party which historically has ensured that the Federal Government will provide a safety net and protection for working families in a time of need.

Mr. SHAYS. Mr. Chairman, H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act is a measure response to the ongoing subprime mortgage crisis that sets some minimum Federal standards for home loans and reasonable accountability standards for lenders.

Setting restrictive standards on borrowers with weak credit profiles and higher risk of default could be counterproductive and limit access to credit to individuals who, without the subprime market, would be unable to get loans and have a part of the American Dream.

Recent increases in subprime borrower foreclosures and lender bankruptcies, however, have prompted concerns that some lenders' underwriting guidelines are too loose and that some borrowers have not fully understood the risks of the mortgage products they chose.

To remedy this problem, the bill would require lenders to first document that prospective borrowers can repay both during any discounted introductory period and after the rate rises to market levels. In language that would directly expose lenders to liability, the loans would be required to have a "net tangible benefit" for the borrowers.

While I agree with the bill's approach, I am concerned about some provisions. For example, I am not certain that prohibiting mortgage brokers from earning yield spread premiums on loans they make to individuals in the subprime market will prevent a great deal of fraud and abuse, and it could lead to mortgage brokers being locked out of this market.

There is wide agreement, however, that the bill's licensing standards for lenders are needed, and these standards are a primary factor in my support for the legislation. Licensing will lead to more educated lenders, which will in turn lead to borrowers who end up with the most suitable mortgage.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment is as follows:

H.R. 3915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Mortgage Reform and Anti-Predatory Lending Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—RESIDENTIAL MORTGAGE LOAN ORIGINATION

Subtitle A—Licensing System for Residential Mortgage Loan Originators

SEC. 101. PURPOSES AND METHODS FOR ESTABLISHING A MORTGAGE LICENSING SYSTEM AND REGISTRY.

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

(1) Provides uniform license applications and reporting requirements for State-licensed loan originators.

(2) Provides a comprehensive licensing and supervisory database.

(3) Aggregates and improves the flow of information to and between regulators.

(4) Provides increased accountability and tracking of loan originators.

(5) Streamlines the licensing process and reduces the regulatory burden.

(6) Enhances consumer protections and supports anti-fraud measures.

(7) Provides consumers with easily accessible information regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.

SEC. 102. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) FEDERAL BANKING AGENCIES.—The term ''Federal banking agencies'' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(2) DEPOSITORY INSTITUTION.—The term ''depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act and includes any credit union.

(3) LOAN ORIGINATOR.—

(A) IN GENERAL.—The term ''loan originator''—

(i) means an individual who—

(I) takes a residential mortgage loan application;

(II) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or

(III) offers or negotiates terms of a residential mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

(ii) includes any individual who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will provide or perform any of the activities described in clause (i);

(iii) does not include any individual who performs purely administrative or clerical tasks and is not otherwise described in this subparagraph; and

(iv) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator.

(B) OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR.—For purposes of this subsection, an individual ''assists a consumer in obtaining or applying to obtain a residential mortgage loan'' by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

(C) ADMINISTRATIVE OR CLERICAL TASKS.—The term ''administrative or clerical tasks'' means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(D) REAL ESTATE BROKERAGE ACTIVITY DEFINED.—The term ''real estate brokerage activity'' means any activity that involves offering or providing real estate brokerage services to the public, including—

(i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) listing or advertising real property for sale, purchase, lease, rental, or exchange;

(iii) providing advice in connection with sale, purchase, lease, rental, or exchange of real property;

(iv) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(v) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(vi) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(vii) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), (iv), (v), or (vi).

(4) LOAN PROCESSOR OR UNDERWRITER.—

(A) IN GENERAL.—The term ''loan processor or underwriter'' means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

(i) a State-licensed loan originator; or

(ii) a registered loan originator.

(B) CLERICAL OR SUPPORT DUTIES.—For purposes of subparagraph (A), the term ''clerical or support duties'' may include—

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

(5) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.—The term ''Nationwide Mortgage Licensing System and Registry'' means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Secretary under section 108.

(6) REGISTERED LOAN ORIGINATOR.—The term ''registered loan originator'' means any individual who—

(A) meets the definition of loan originator and is an employee of a depository institution or a subsidiary of a depository institution; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(7) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan'' means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(9) STATE-LICENSED LOAN ORIGINATOR.—The term ''State-licensed loan originator'' means any individual who—

(A) is a loan originator;

(B) is not an employee of a depository institution or any subsidiary of a depository institution; and

(C) is licensed by a State or by the Secretary under section 107 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(10) UNIQUE IDENTIFIER.—The term ''unique identifier'' means a number or other identifier that—

(A) permanently identifies a loan originator; and

(B) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

SEC. 103. LICENSE OR REGISTRATION REQUIRED.

(a) IN GENERAL.—An individual may not engage in the business of a loan originator without first—

(1) obtaining and maintaining—

(A) a registration as a registered loan originator; or

(B) a license and registration as a State-licensed loan originator; and

(2) obtaining a unique identifier.

(b) LOAN PROCESSORS AND UNDERWRITERS.—

(1) SUPERVISED LOAN PROCESSORS AND UNDERWRITERS.—A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate

lists, or other promotional items), that such individual can or will perform any of the activities of a loan originator shall not be required to be a State-licensed loan originator or a registered loan originator.

(2) INDEPENDENT CONTRACTORS.—A loan processor or underwriter may not work as an independent contractor unless such processor or underwriter is a State-licensed loan originator or a registered loan originator.

SEC. 104. STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.

(a) BACKGROUND CHECKS.—In connection with an application to any State for licensing and registration as a State-licensed loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including—

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(2) personal history and experience, including authorization for the System to obtain—

(A) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) ISSUANCE OF LICENSE.—The minimum standards for licensing and registration as a State-licensed loan originator shall include the following:

(1) The applicant has not had a loan originator or similar license revoked in any governmental jurisdiction during the 5-year period immediately preceding the filing of the present application.

(2) The applicant has not been convicted, pled guilty or nolo contendere in a domestic, foreign, or military court of a felony during the 7-year period immediately preceding the filing of the present application.

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this subtitle.

(4) The applicant has completed the pre-licensing education requirement described in subsection (c).

(5) The applicant has passed a written test that meets the test requirement described in subsection (d).

(c) PRE-LICENSING EDUCATION OF LOAN ORIGINATORS.—

(1) MINIMUM EDUCATIONAL REQUIREMENTS.—In order to meet the pre-licensing education requirement referred to in subsection (b)(4), a person shall complete at least 20 hours of education approved in accordance with paragraph (2), which shall include at least 3 hours of Federal law and regulations and 3 hours of ethics.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), pre-licensing education courses shall be reviewed, approved and published by the Nationwide Mortgage Licensing System and Registry.

(d) TESTING OF LOAN ORIGINATORS.—

(1) IN GENERAL.—In order to meet the written test requirement referred to in subsection (b)(5), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed and administered by the Nationwide Mortgage Licensing System and Registry.

(2) QUALIFIED TEST.—A written test shall not be treated as a qualified written test for purposes of paragraph (1) unless—

(A) the test consists of a minimum of 100 questions; and

(B) the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including—

(i) ethics;

(ii) Federal law and regulation pertaining to mortgage origination; and

(iii) State law and regulation pertaining to mortgage origination.

(3) MINIMUM COMPETENCE.—

(A) PASSING SCORE.—An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(B) INITIAL RETESTS.—An individual may retake a test 3 consecutive times with each consecutive taking occurring in less than 14 days after the preceding test.

(C) SUBSEQUENT RETESTS.—After 3 consecutive tests, an individual shall wait at least 14 days before taking the test again.

(D) RETEST AFTER LAPSE OF LICENSE.—A State-licensed loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered loan originator.

SEC. 105. STANDARDS FOR STATE LICENSE RENEWAL.

(a) IN GENERAL.—The minimum standards for license renewal for State-licensed loan originators shall include the following:

(1) The loan originator continues to meet the minimum standards for license issuance.

(2) The loan originator has satisfied the annual continuing education requirements described in subsection (b).

(b) CONTINUING EDUCATION FOR STATE-LICENSED LOAN ORIGINATORS.—

(1) IN GENERAL.—In order to meet the annual continuing education requirements referred to in subsection (a)(2), a State-licensed loan originator shall complete at least 8 hours of education approved in accordance with paragraph (2), which shall include at least 3 hours of Federal law and regulations and 2 hours of ethics.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), continuing education courses shall be reviewed, approved, and published by the Nationwide Mortgage Licensing System and Registry.

(3) CALCULATION OF CONTINUING EDUCATION CREDITS.—A State-licensed loan originator—

(A) may only receive credit for a continuing education course in the year in which the course is taken; and

(B) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) INSTRUCTOR CREDIT.—A State-licensed loan originator who is approved as an instructor of an approved continuing education course may receive credit for the originator's own annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

SEC. 106. SYSTEM OF REGISTRATION ADMINISTRATION BY FEDERAL BANKING AGENCIES.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Federal banking agencies shall jointly develop and maintain a system for registering employees of depository institutions or subsidiaries of depository institutions as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of the enactment of this Act.

(2) REGISTRATION REQUIREMENTS.—In connection with the registration of any loan originator who is an employee of a depository institution or a subsidiary of a depository institution with the Nationwide Mortgage Licensing System and Registry, the appropriate Federal banking agency shall, at a minimum, furnish or cause to be furnished to the Nationwide Mortgage Licensing System and Registry information concerning the employees's identity, including—

(A) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(B) personal history and experience, including—

(i) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(ii) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) UNIQUE IDENTIFIER.—The Federal banking agencies, through the Financial Institutions Examination Council, shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each registered loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators.

(c) CONSIDERATION OF FACTORS AND PROCEDURES.—In establishing the registration procedures under subsection (a) and the protocols for assigning a unique identifier to a registered loan originator, the Federal banking agencies shall make such de minimis exceptions as may be appropriate to paragraphs (1)(A) and (2) of section 103(a), shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators, and shall consider methods for automating the process to the greatest extent practicable consistent with the purposes of this subtitle.

SEC. 107. SECRETARY OF HOUSING AND URBAN DEVELOPMENT BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM.

(a) BACK UP LICENSING SYSTEM.—If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this Act or at any time thereafter, the Secretary determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 104 and 105 and subsection (d) or does not participate in the Nationwide Mortgage Licensing System and Registry, the Secretary shall provide for the establishment and maintenance of a system for the licensing and registration by the Secretary of loan originators operating in such State as State-licensed loan originators.

(b) LICENSING AND REGISTRATION REQUIREMENTS.—The system established by the Secretary under subsection (a) for any State shall meet the requirements of sections 104 and 105 for State-licensed loan originators.

(c) UNIQUE IDENTIFIER.—The Secretary shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the Secretary as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) STATE LICENSING LAW REQUIREMENTS.—For purposes of this section, the law in effect in a State meets the requirements of this subsection if the Secretary determines the law satisfies the following minimum requirements:

(1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or nonrenewal of a license for a violation of State or Federal law.

(2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

(3) The State loan originator supervisory authority is required to regularly report violations of such law, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(e) TEMPORARY EXTENSION OF PERIOD.—The Secretary may extend, by not more than 6 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 104 and 105 and subsection (d) if the Secretary determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

(f) LIMITATION ON HUD-LICENSED LOAN ORIGINATORS.—Any loan originator who is licensed by the Secretary under a system established under this section for any State may not use such license to originate loans in any other State.

SEC. 108. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.

If at any time the Secretary determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this subtitle for a comprehensive licensing, supervisory, and tracking system for loan originators, the Secretary shall establish and maintain such a system to carry out the purposes of this subtitle and the effective registration and regulation of loan originators.

SEC. 109. FEES.

The Federal banking agencies, the Secretary, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry to the extent such fees are not charged to consumers for access such system and registry.

SEC. 110. BACKGROUND CHECKS OF LOAN ORIGINATORS.

(a) ACCESS TO RECORDS.—Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators.

(b) AGENT.—For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting and distributing information between the Department of Justice and the appropriate State agencies.

SEC. 111. CONFIDENTIALITY OF INFORMATION.

(a) SYSTEM CONFIDENTIALITY.—Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 108, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) NONAPPLICABILITY OF CERTAIN REQUIREMENTS.—Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—

(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the Secretary with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(c) COORDINATION WITH OTHER LAW.—Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) PUBLIC ACCESS TO INFORMATION.—This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

SEC. 112. LIABILITY PROVISIONS.

The Secretary, any State official or agency, any Federal banking agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 108, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good-faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

SEC. 113. ENFORCEMENT UNDER HUD BACKUP LICENSING SYSTEM.

(a) SUMMONS AUTHORITY.—The Secretary may—

(1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 107; and

(2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the Secretary or any delegate of the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this subtitle.

(b) EXAMINATION AUTHORITY.—

(1) IN GENERAL.—If the Secretary establishes a licensing system under section 107 for any State, the Secretary shall appoint examiners for the purposes of administering such section.

(2) POWER TO EXAMINE.—Any examiner appointed under paragraph (1) shall have power, on behalf of the Secretary, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 107 whenever the Secretary determines an examination of any loan originator is necessary to determine the compliance by the originator with this subtitle.

(3) REPORT OF EXAMINATION.—Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the Secretary.

(4) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE.—In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the Secretary under section 107, or with other types of investigations to determine compliance with applicable law and regulations, the Secretary and examiners appointed by the Secretary may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) ASSESSMENTS.—The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 107 shall be assessed by the Secretary against the loan originator to meet the Secretary's expenses in carrying out such examination.

(c) CEASE AND DESIST PROCEEDING.—

(1) AUTHORITY OF SECRETARY.—If the Secretary finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this subtitle, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the Secretary under section 107, the Secretary may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the Secretary may specify in such order. Any such order may, as the Secretary deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Secretary may specify, with such provision or regulation with respect to any loan originator.

(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Secretary with the consent of any respondent so served.

(3) TEMPORARY ORDER.—Whenever the Secretary determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion of the proceedings, the Secretary may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as the Secretary deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Secretary determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Secretary or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

(4) REVIEW OF TEMPORARY ORDERS.—

(A) REVIEW BY SECRETARY.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Secretary to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior hearing before the Secretary, the respondent may, within 10 days after the date on which the order was served, request a

hearing on such application and the Secretary shall hold a hearing and render a decision on such application at the earliest possible time.

(B) JUDICIAL REVIEW.—Within—

(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior hearing before the Secretary; or

(ii) 10 days after the Secretary renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior hearing before the Secretary,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior hearing before the Secretary may not apply to the court except after hearing and decision by the Secretary on the respondent's application under subparagraph (A).

(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

(5) AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS.—In any cease-and-desist proceeding under paragraph (1), the Secretary may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the Secretary shall determine, any person who has violated this subtitle or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) AUTHORITY OF THE SECRETARY TO ASSESS MONEY PENALTIES.—

(1) IN GENERAL.—The Secretary may impose a civil penalty on a loan originator operating in any State which is subject to licensing system established by the Secretary under section 107 if the Secretary finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of this subtitle or any regulation prescribed by the Secretary under this subtitle or order issued under subsection (c).

(2) MAXIMUM AMOUNT OF PENALTY.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for each day the violation continues.

Subtitle B—Residential Mortgage Loan Origination Standards

SEC. 121. DEFINITIONS.

Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

''(cc) DEFINITIONS RELATING TO MORTGAGE ORIGINATION AND RESIDENTIAL MORTGAGE LOANS.—

''(1) COMMISSION.—Unless otherwise specified, the term 'Commission' means the Federal Trade Commission.

''(2) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.

''(3) MORTGAGE ORIGINATOR.—The term 'mortgage originator'—

''(A) means any person who—

''(i) takes a residential mortgage loan application;

''(ii) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or

''(iii) offers or negotiates terms of a residential mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

''(B) includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in subparagraph (A); and

''(C) does not include any person who is not otherwise described in subparagraph (A) or (B) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such subparagraph.

''(4) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.—The term 'Nationwide Mortgage Licensing System and Registry' has the same meaning as in section 102(5) of the Mortgage Reform and Anti-Predatory Lending Act of 2007.

''(5) OTHER DEFINITIONS RELATING TO MORTGAGE ORIGINATOR.—For purposes of this subsection, a person 'assists a consumer in obtaining or applying to obtain a residential mortgage loan' by, among other things, advising on residential mortgage loan terms (including rates, fees, and other costs), preparing residential mortgage loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

''(6) RESIDENTIAL MORTGAGE LOAN.—The term 'residential mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or a reverse mortgage.

''(7) SECRETARY.—The term 'Secretary', when used in connection with any transaction or person involved with a residential mortgage loan, means the Secretary of Housing and Urban Development.

''(8) SECURITIZATION VEHICLE.—The term 'securitization vehicle' means a trust, corporation, partnership, limited liability entity, or special purpose entity that—

''(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and

''(B) holds such loans.

''(9) SECURITIZER.—The term 'securitizer' means the person that transfers, conveys, or assigns, or causes the transfer, conveyance, or assignment of, residential mortgage loans, including through a special purpose vehicle, to any securitization vehicle, excluding any trustee that holds such loans solely for the benefit of the securitization vehicle.''.

SEC. 122. RESIDENTIAL MORTGAGE LOAN ORIGINATION.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129 the following new section:

''§129A. Residential mortgage loan origination

''(a) DUTY OF CARE.—

''(1) STANDARD.—Subject to regulations prescribed under this subsection, each mortgage originator shall, in addition to the duties imposed by otherwise applicable provisions of State or Federal law—

''(A) be qualified, registered, and, when required, licensed as a mortgage originator in accordance with applicable State or Federal law including subtitle A of title I of the Mortgage Reform and Anti-Predatory Lending Act of 2007;

''(B) with respect to each consumer seeking or inquiring about a residential mortgage loan, diligently work to present the consumer with a range of residential mortgage loan products for which the consumer likely qualifies and which are appropriate to the consumer's existing circumstances, based on information known by, or obtained in good faith by, the originator;

''(C) make full, complete, and timely disclosure to each such consumer of—

''(i) the comparative costs and benefits of each residential mortgage loan product offered, discussed, or referred to by the originator;

''(ii) the nature of the originator's relationship to the consumer (including the cost of the services to be provided by the originator and a statement that the mortgage originator is or is not acting as an agent for the consumer, as the case may be); and

''(iii) any relevant conflicts of interest;

''(D) certify to the creditor, with respect to any transaction involving a residential mortgage loan, that the mortgage originator has fulfilled all requirements applicable to the originator under this section with respect to the transaction; and

''(E) include the unique identifier of the originator provided by the Nationwide Mortgage Licensing System and Registry on all loan documents.

''(2) CLARIFICATION OF EXTENT OF DUTY TO PRESENT RANGE OF PRODUCTS AND APPROPRIATE PRODUCTS.—

''(A) NO DUTY TO OFFER PRODUCTS FOR WHICH ORIGINATOR IS NOT AUTHORIZED TO TAKE AN APPLICATION.—Paragraph (1)(B) shall not be construed as requiring—

''(i) a mortgage originator to present to any consumer any specific residential mortgage loan product that is offered by a creditor which does not accept consumer referrals from, or consumer applications submitted by or through, such originator; or

''(ii) a creditor to offer products that the creditor does not offer to the general public.

''(B) APPROPRIATE LOAN PRODUCT.—For purposes of paragraph (1)(B), a residential mortgage loan shall be presumed to be appropriate for a consumer if—

''(i) the mortgage originator determines in good faith, based on then existing information and without undergoing a full underwriting process, that the consumer has a reasonable ability to repay and receives a net tangible benefit (as determined in accordance with regulations prescribed under section 129B(a)); and

''(ii) the loan does not have predatory characteristics or effects (such as equity stripping and excessive fees and abusive terms) as determined in accordance with regulations prescribed under paragraph (4).

''(3) RULES OF CONSTRUCTION.—No provision of this subsection shall be construed as—

''(A) creating an agency or fiduciary relationship between a mortgage originator and a consumer if the originator does not hold himself or herself out as such an agent or fiduciary; or

''(B) restricting a mortgage originator from holding himself or herself out as an agent or fiduciary of a consumer subject to any additional duty, requirement, or limitation applicable to agents or fiduciaries under any Federal or State law.

''(4) REGULATIONS.—

''(A) IN GENERAL.—The Federal banking agencies, in consultation with the Secretary and the Commission, shall jointly prescribe regulations to—

''(i) further define the duty established under paragraph (1);

''(ii) implement the requirements of this subsection;

''(iii) establish the time period within which any disclosure required under paragraph (1) shall be made to the consumer; and

''(iv) establish such other requirements for any mortgage originator as such regulatory agencies may determine to be appropriate to meet the purposes of this subsection.

''(B) COMPLEMENTARY AND NONDUPLICATIVE DISCLOSURES.—The agencies referred to in subparagraph (A) shall endeavor to make the required disclosures to consumers under this subsection complementary and nonduplicative with other disclosures for mortgage consumers to the extent such efforts—

''(i) are practicable; and

''(ii) do not reduce the value of any such disclosure to recipients of such disclosures.

''(5) COMPLIANCE PROCEDURES REQUIRED.—The Federal banking agencies shall prescribe regulations requiring depository institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such depository institutions, the subsidiaries of such institutions, and the employees of such institutions or subsidiaries with the requirements of this section and the registration procedures established under section 106 of the Mortgage Reform and Anti-Predatory Lending Act of 2007.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129 the following new item:

''129A. Residential mortgage loan origination.''.

SEC. 123. ANTI-STEERING.

Section 129A of the Truth in Lending Act (as added by section 122(a)) is amended by inserting after subsection (a) the following new subsection:

''(b) PROHIBITION ON STEERING INCENTIVES.—

''(1) IN GENERAL.—No mortgage originator may receive from any person, and no person may pay to any mortgage originator, directly or indirectly, any incentive compensation (including yield spread premium) that is based on, or varies with, the terms (other than the amount of principal) of any loan that is not a qualified mortgage (as defined in section 129B(c)(3)).

''(2) ANTI-STEERING REGULATIONS.—The Federal banking agencies, in consultation with the Secretary and the Commission, shall jointly prescribe regulations to prohibit—

''(A) mortgage originators from steering any consumer to a residential mortgage loan that—

''(i) the consumer lacks a reasonable ability to repay;

''(ii) does not provide the consumer with a net tangible benefit; or

''(iii) has predatory characteristics or effects (such as equity stripping, excessive fees, or abusive terms);

''(B) mortgage originators from steering any consumer from a residential mortgage loan for which the consumer is qualified that is a qualified mortgage (as defined in section 129B(c)(3)) to a residential mortgage loan that is not a qualified mortgage; and

''(C) abusive or unfair lending practices that promote disparities among consumers of equal credit worthiness but of different race, ethnicity, gender, or age.

''(3) RULES OF CONSTRUCTION.—No provision of this subsection shall be construed as—

''(A) limiting or affecting the ability of a mortgage originator to sell residential mortgage loans to subsequent purchasers;

''(B) restricting a consumer's ability to finance origination fees to the extent that such fees were fully disclosed to the consumer earlier in the application process and do not vary based on the terms of the loan or the consumer's decision about whether to finance such fees; or

''(C) prohibiting incentive payments to a mortgage originator based on the number of residential mortgage loans originated within a specified period of time.''.

SEC. 124. LIABILITY.

Section 129A of the Truth in Lending Act is amended by inserting after subsection (b) (as added by section 123) the following new subsection:

''(c) LIABILITY FOR VIOLATIONS.—

''(1) IN GENERAL.—For purposes of providing a cause of action for any failure by a mortgage originator to comply with any requirement imposed under this section and any regulation prescribed under this section, subsections (a) and (b) of section 130 shall be applied with respect to any such failure by substituting 'mortgage originator' for 'creditor' each place such term appears in each such subsection

''(2) MAXIMUM.—The maximum amount of any liability of a mortgage originator under paragraph (1) to a consumer for any violation of this section shall not exceed an amount equal to 3 times the total amount of direct and indirect compensation or gain accruing to the mortgage originator in connection with the residential mortgage loan involved in the violation, plus the costs to the consumer of the action, including a reasonable attorney's fee.''.

SEC. 125. REGULATIONS.

The regulations required or authorized to be prescribed under this title or the amendments made by this title—

(1) shall be prescribed in final form before the end of the 12-month period beginning on the date of the enactment of this Act; and

(2) shall take effect not later than 18 months after the date of the enactment of this Act.

TITLE II—MINIMUM STANDARDS FOR MORTGAGES

SEC. 201. ABILITY TO REPAY.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129A (as added by section 122(a)) the following new section:

''§ 129B. Minimum standards for residential mortgage loans

''(a) ABILITY TO REPAY.—

''(1) IN GENERAL.—In accordance with regulations prescribed jointly by the Federal banking agencies, in consultation with the Commission, no creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments.

''(2) MULTIPLE LOANS.—If the creditor knows, or has reason to know, that 1 or more residential mortgage loans secured by the same dwelling will be made to the same consumer, the creditor shall make a reasonable and good faith determination, based on verified and documented information, that the consumer has a reasonable ability to repay the combined payments of all loans on the same dwelling according to the terms of those loans and all applicable taxes, insurance, and assessments.

''(3) BASIS FOR DETERMINATION.—A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall be based on consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.

''(4) NONSTANDARD LOANS.—

''(A) VARIABLE RATE LOANS THAT DEFER REPAYMENT OF ANY PRINCIPAL OR INTEREST.—For purposes of determining, under this subsection, a consumer's ability to repay a variable rate residential mortgage loan that allows or requires the consumer to defer the repayment of any principal or interest, the creditor shall take into consideration a fully amortizing repayment schedule.

''(B) INTEREST-ONLY LOANS.—For purposes of determining, under this subsection, a consumer's ability to repay a residential mortgage loan that permits or requires the payment of interest only, the creditor shall take into consideration the payment amount required to amortize the loan by its final maturity.

''(C) CALCULATION FOR NEGATIVE AMORTIZATION.—In making any determination under this subsection, a creditor shall also take into consideration any balance increase that may accrue from any negative amortization provision.

''(D) CALCULATION PROCESS.—For purposes of making any determination under this subsection, a creditor shall calculate the monthly payment amount for principal and interest on any residential mortgage loan by assuming—

''(i) the loan proceeds are fully disbursed on the date of the consummation of the loan;

''(ii) the loan is to be repaid in substantially equal monthly amortizing payments for principal and interest over the entire term of the loan with no balloon payment, unless the loan contract requires more rapid repayment (including balloon payment), in which case the contract's repayment schedule shall be used in this calculation; and

''(iii) the interest rate over the entire term of the loan is a fixed rate equal to the fully indexed rate at the time of the loan closing, without considering the introductory rate.

''(5) FULLY-INDEXED RATE DEFINED.—For purposes of this subsection, the term 'fully indexed rate' means the index rate prevailing on a residential mortgage loan at the time the loan is made plus the margin that will apply after the expiration of any introductory interest rates.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129A (as added by section 122(b)) the following new item:

''129B. Minimum standards for residential mortgage loans.''.

SEC. 202. NET TANGIBLE BENEFIT FOR REFINANCING OF RESIDENTIAL MORTGAGE LOANS.

Section 129B of the Truth in Lending Act (as added by section 201(a)) is amended by inserting after subsection (a) the following new subsection:

''(b) NET TANGIBLE BENEFIT FOR REFINANCING OF RESIDENTIAL MORTGAGE LOANS.—

''(1) IN GENERAL.—In accordance with regulations prescribed under paragraph (3), no creditor may extend credit in connection with any residential mortgage loan that involves a refinancing of a prior existing residential mortgage loan unless the creditor reasonably and in good faith determines, at the time the loan is consummated and on the basis of information known by or obtained in good faith by the creditor, that the refinanced loan will provide a net tangible benefit to the consumer.

''(2) CERTAIN LOANS PROVIDING NO NET TANGIBLE BENEFIT.—A residential mortgage loan that involves a refinancing of a prior existing residential mortgage loan shall not be considered to provide a net tangible benefit to the consumer if the costs of the refinanced loan, including points, fees and other charges, exceed the amount of any newly advanced principal without any corresponding changes in the terms of the refinanced loan that are advantageous to the consumer.

''(3) NET TANGIBLE BENEFIT.—The Federal banking agencies shall jointly prescribe regulations defining the term 'net tangible benefit' for purposes of this subsection.''.

SEC. 203. SAFE HARBOR AND REBUTTABLE PRESUMPTION.

Section 129B of the Truth in Lending Act is amended by inserting after subsection (b) (as added by section 202) the following new subsection:

''(c) PRESUMPTION OF ABILITY TO REPAY AND NET TANGIBLE BENEFIT.—

''(1) IN GENERAL.—Any creditor with respect to any residential mortgage loan, and any assignee or securitizer of such loan, may presume that the loan has met the requirements of subsections (a) and (b), if the loan is a qualified mortgage or a qualified safe harbor mortgage.

''(2) REBUTTABLE PRESUMPTION.—Any presumption established under paragraph (1) with respect to any residential mortgage loan shall be rebuttable only—

''(A) against the creditor of such loan; and

''(B) if such loan is a qualified safe harbor mortgage.

''(3) DEFINITIONS.—For purposes of this section the following definitions shall apply:

''(A) MOST RECENT CONVENTIONAL MORTGAGE RATE.—The term 'most recent conventional mortgage rate' means the contract interest rate on commitments for fixed-rate first mortgages most recently published in the Federal Reserve Statistical Release on selected interest rates (daily or weekly), and commonly referred to as the H.15 release (or any successor publication), in the week preceding a date of determination for purposes of applying this subsection.

''(B) QUALIFIED MORTGAGE.—The term 'qualified mortgage' means—

''(i) any residential mortgage loan that constitutes a first lien on the dwelling or real property securing the loan and either—

''(I) has an annual percentage rate that does not equal or exceed the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, that bear comparable periods of maturity by more than 3 percentage points; or

''(II) has an annual percentage rate that does not equal or exceed the most recent conventional mortgage rate, or such other annual percentage rate as may be established by regulation under paragraph (6), by more than 175 basis points;

''(ii) any residential mortgage loan that is not the first lien on the dwelling or real property securing the loan and either—

''(I) has an annual percentage rate that does not equal or exceed the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, that bear comparable periods of maturity by more than 5 percentage points; or

''(II) has an annual percentage rate that does not equal or exceed the most recent conventional mortgage rate, or such other annual percentage rate as may be established by regulation under paragraph (6), by more than 375 basis points; and

''(iii) a loan made or guaranteed by the Secretary of Veterans Affairs.

''(C) QUALIFIED SAFE HARBOR MORTGAGE.—The term 'qualified safe harbor mortgage' means any residential mortgage loan—

''(i) for which the income and financial resources of the consumer are verified and documented;

''(ii) for which the residential mortgage loan underwriting process is based on the fully-indexed rate, and takes into account all applicable taxes, insurance, and assessments;

''(iii) which does not provide for a repayment schedule that results in negative amortization at any time;

''(iv) meets such other requirements as may be established by regulation; and

''(v) for which any of the following factors apply with respect to such loan:

''(I) The periodic payment amount for principal and interest are fixed for a minimum of 5 years under the terms of the loan.

''(II) In the case of a variable rate loan, the annual percentage rate varies based on a margin that is less than 3 percent over a single generally accepted interest rate index that is the basis for determining the rate of interest for the mortgage.

''(III) The loan does not cause the consumer's total monthly debts, including amounts under the loan, to exceed a percentage established by regulation of his or her monthly gross income or such other maximum percentage of such income as may be prescribed by regulation under paragraph (6).

''(4) DETERMINATION OF COMPARISON TO TREASURY SECURITIES.—

''(A) IN GENERAL.—Without regard to whether a residential mortgage loan is subject to or reportable under the Home Mortgage Disclosure Act of 1975 and subject to subparagraph (B), the difference between the annual percentage rate of such loan and the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, having comparable periods of maturity shall be determined using the same procedures and methods of calculation applicable to loans that are subject to the reporting requirements under the Home Mortgage Disclosure Act of 1975.

''(B) DATE OF DETERMINATION OF YIELD.—The yield on the securities referred to in subparagraph (A) shall be determined, for purposes of such subparagraph and paragraph (3) with respect to any residential mortgage loan, as of the 15th day of the month preceding the month in which a completed application is submitted for such loan.

''(5) APR IN CASE OF INTRODUCTORY OFFER.—For purposes of making a determination of whether a residential mortgage loan that provides for a fixed interest rate for an introductory period and then resets or adjusts to a variable rate is a qualified mortgage, the determination of the annual percentage rate, as determined in accordance with regulations prescribed by the Board under section 107, shall be based on the greater of the introductory rate and the fully indexed rate of interest.

''(6) REGULATIONS.—

''(A) IN GENERAL.—The Federal banking agencies shall jointly prescribe regulations to carry out the purposes of this subsection.

''(B) REVISION OF SAFE HARBOR CRITERIA.—The Federal banking agencies may jointly prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage and a qualified safe harbor mortgage to the extent necessary and appropriate to effectuate the purposes of this subsection, to prevent circumvention or evasion of this subsection, or to facilitate compliance with this subsection.

''(7) RULE OF CONSTRUCTION.—No provision of this subsection may be construed as implying that a residential mortgage loan may be presumed to violate subsection (a) or (b) if such loan is not a qualified mortgage or a qualified safe harbor mortgage.''.

SEC. 204. LIABILITY.

Section 129B of the Truth in Lending Act is amended by inserting after subsection (c) (as added by section 203) the following new subsection:

''(d) LIABILITY FOR VIOLATIONS.—

''(1) IN GENERAL.—

''(A) RESCISSION.—In addition to any other liability under this title for a violation by a creditor of subsection (a) or (b) (for example under section 130) and subject to the statute of limitations in paragraph (7), a civil action may be maintained against a creditor for a violation of subsection (a) or (b) with respect to a residential mortgage loan for the rescission of the loan, and such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.

''(B) CURE.—A creditor shall not be liable for rescission under subparagraph (A) with respect to a residential mortgage loan if, no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the creditor provides a cure.

''(2) LIMITED ASSIGNEE AND SECURITIZER LIABILITY.—Notwithstanding sections 125(e) and 131 and except as provided in paragraph (3), a civil action which may be maintained against a creditor with respect to a residential mortgage loan for a violation of subsection (a) or (b) may be maintained against any assignee or securitizer of such residential mortgage loan, who has acted in good faith, for the following liabilities only:

''(A) Rescission of the loan.

''(B) Such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.

''(3) ASSIGNEE AND SECURITIZER EXEMPTION.—No assignee or securitizer of a residential mortgage loan shall be liable under paragraph (2) with respect to such loan if—

''(A) no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the assignee or securitizer provides a cure so that the loan satisfies the requirements of subsections (a) and (b); or

''(B) each of the following conditions are met:

''(i) The assignee or securitizer—

''(I) has a policy against buying residential mortgage loans other than qualified mortgages or qualified safe harbor mortgages (as defined in subsection (c));

''(II) the policy is intended to verify seller or assignor compliance with the representations and warranties required under clause (ii); and

''(III) in accordance with regulations which the Federal banking agencies and the Securities and Exchange Commission shall jointly prescribe, exercises reasonable due diligence to adhere to such policy in purchasing residential mortgage loans, including through adequate, thorough, and consistently applied sampling procedures.

''(ii) The contract under which such assignee or securitizer acquired the residential mortgage loan from a seller or assignor of the loan contains representations and warranties that the seller or assignor—

''(I) is not selling or assigning any residential mortgage loan which is not a qualified mortgage or a qualified safe harbor mortgage; or

''(II) is a beneficiary of a representation and warranty from a previous seller or assignor to that effect,

and the assignee or securitizer in good faith takes reasonable steps to obtain the benefit of such representation or warranty.

''(4) CURE DEFINED.—For purposes of this subsection, the term 'cure' means, with respect to a residential mortgage loan that violates subsection (a) or (b), the modification or refinancing, at no cost to the consumer, of the loan to provide terms that would have satisfied the requirements of subsection (a) and (b) if the loan had contained such terms as of the origination of the loan.

''(5) DISAGREEMENT OVER CURE.—If any creditor, assignee, or securitizer and a consumer fail to reach agreement on a cure with respect to a residential mortgage loan that violates subsection (a) or (b), or the consumer fails to accept a cure proffered by a creditor, assignee, or securitizer—

''(A) the creditor, assignee, or securitizer may provide the cure; and

''(B) the consumer may challenge the adequacy of the cure during the 6-month period beginning when the cure is provided.

If the consumer's challenge, under this paragraph, of a cure is successful, the creditor, assignee, or securitizer shall be liable to the consumer for rescission of the loan and such additional costs under paragraph (2).

''(6) INABILITY TO PROVIDE RESCISSION.—If a creditor, assignee, or securitizer cannot provide rescission under paragraph (1) or (2), the liability of such creditor, assignee, or securitizer shall be met by providing the financial equivalent of a rescission, together with such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.

''(7) NO CLASS ACTIONS AGAINST ASSIGNEE OR SECURITIZER UNDER PARAGRAPH (2).—Only individual actions may be brought against an assignee or securitizer of a residential mortgage loan for a violation of subsection (a) or (b).

''(8) STATUTE OF LIMITATIONS.—The liability of a creditor, assignee, or securitizer under this subsection shall apply in any original action against a creditor under paragraph (1) or an assignee or securitizer under paragraph (2) which is brought before—

''(A) in the case of any residential mortgage loan other than a loan to which subparagraph (B) applies, the end of the 3-year period beginning on the date the loan is consummated; or

''(B) in the case of a residential mortgage loan that provides for a fixed interest rate for an introductory period and then resets or adjusts to *a variable rate or that provides for a nonamortizing payment schedule and then converts to an amortizing payment schedule, the earlier of—*

''(i) the end of the 1-year period beginning on the date of such reset, adjustment, or conversion; or

''(ii) the end of the 6-year period beginning on the date the loan is consummated.

''(9) POOLS AND INVESTORS IN POOLS EXCLUDED.—In the case of residential mortgage loans acquired or aggregated for the purpose of including such loans in a pool of assets held for the purpose of issuing or selling instruments representing interests in such pools including through a securitization vehicle, the terms 'assignee' and 'securitizer', as used in this section, do not include the securitization vehicle, the pools of such loans or any original or subsequent purchaser of any interest in the securitization vehicle or any instrument representing a direct or indirect interest in such pool.''.

SEC. 205. DEFENSE TO FORECLOSURE.

Section 129B of the Truth in Lending Act is amended by inserting after subsection (d) (as added by section 204) the following new subsection:

''(e) DEFENSE TO FORECLOSURE.—Notwithstanding any other provision of law—

''(1) when the holder of a residential mortgage loan or anyone acting for such holder initiates a judicial or nonjudicial foreclosure—

''(A) a consumer who has the right to rescind under this section with respect to such loan against the creditor or any assignee or securitizer may assert such right as a defense to foreclosure or counterclaim to such foreclosure against the holder, or

''(B) if the foreclosure proceeding begins after the end of the period during which a consumer may bring an action for rescission under subsection (d), the consumer may seek actual damages incurred by reason of the violation which gave rise to the right of rescission, together with costs of the action, including a reasonable attorney's fee against the creditor or any assignee or securitizer; and

''(2) such holder or anyone acting for such holder or any other applicable third party may sell, transfer, convey, or assign a residential mortgage loan to a creditor, any assignee, or any securitizer, or their designees, to effect a rescission or cure.''.

SEC. 206. ADDITIONAL STANDARDS AND REQUIREMENTS.

(a) IN GENERAL.—Section 129B of the Truth in Lending Act is amended by inserting after subsection (e) (as added by section 205) the following new subsections:

''(f) PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.—

''(1) PROHIBITED ON CERTAIN LOANS.—A residential mortgage loan that is not a qualified mortgage (as defined in subsection (c)) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the loan is consummated.

''(2) PROHIBITED AFTER INITIAL PERIOD ON LOANS WITH A RESET.—A qualified mortgage with a fixed interest rate for an introductory period that adjusts or resets after such period may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the beginning of the 3-month period ending on the date of the adjustment or reset.

''(g) SINGLE PREMIUM CREDIT INSURANCE PROHIBITED.—No creditor may finance, directly or indirectly, in connection with any residential mortgage loan or with any extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer (other than a reverse mortgage), any credit life, credit disability, credit unemployment or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor.

''(h) ARBITRATION.—

''(1) IN GENERAL.—No residential mortgage loan and no extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer, other than a reverse mortgage, may include terms which require arbitration or any other nonjudicial procedure as the method for resolving any controversy or settling any claims arising out of the transaction.

''(2) POST-CONTROVERSY AGREEMENTS.—Subject to paragraph (3), paragraph (1) shall not be construed as limiting the right of the consumer and the creditor, any assignee, or any securitizer to agree to arbitration or any other nonjudicial procedure as the method for resolving any controversy at any time after a dispute or claim under the transaction arises.

''(3) NO WAIVER OF STATUTORY CAUSE OF ACTION.—No provision of any residential mortgage loan or of any extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer (other than a reverse mortgage), and no other agreement between the consumer and the creditor relating to the residential mortgage loan or extension of credit referred to in paragraph (1), shall be applied or interpreted so as to bar a consumer from bringing an action in an appropriate district court of the United States, or any other court of competent jurisdiction, pursuant to section 130 or any other provision of law, for damages or other relief in connection with any alleged violation of this section, any other provision of this title, or any other Federal law.

''(i) DUTY OF SECURITIZER TO RETAIN ACCESS TO LOANS.—Any securitizer shall reserve the right and preserve an ability, in any document or contract establishing any pool of assets that includes any residential mortgage loan—

''(1) to identify and obtain access to any such loan in the pool; and

''(2) to provide for and obtain a remedy under this title for the obligor under any such loan.

''(j) EFFECT OF FORECLOSURE ON PREEXISTING LEASE.—

''(1) IN GENERAL.—In the case of any foreclosure on any dwelling or residential real property securing an extension of credit made under a contract entered into after the date of the enactment of the Mortgage Reform and Anti-Predatory Lending Act of 2007, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

''(A) any bona fide lease made to a bona fide tenant entered into before the notice of foreclosure; and

''(B) the rights of any bona fide tenant without a lease or with a lease terminable at will under State law and the provision, by the successor in interest, of a notice to vacate to the tenant at least 90 days before the effective date of the notice.

''(2) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

''(A) the lease or tenancy was the result of an arms-length transaction; or

''(B) the lease or tenancy requires the tenant to pay rent that is not substantially less than fair market rent for the property.

''(k) MORTGAGES WITH NEGATIVE AMORTIZATION.—No creditor may extend credit to a first-time borrower in connection with a consumer credit transaction under an open or closed end consumer credit plan secured by a dwelling or residential real property that includes a dwelling, other than a reverse mortgage, that provides or permits a payment plan that may, at any time over the term of the extension of credit, result in negative amortization unless, before such transaction is consummated—

''(1) the creditor provides the consumer with a statement that—

''(A) the pending transaction will or may, as the case may be, result in negative amortization;

''(B) describes negative amortization in such manner as the Federal banking agencies shall prescribe;

''(C) negative amortization increases the outstanding principal balance of the account; and

''(D) negative amortization reduces the consumer's equity in the dwelling or real property; and

''(2) the consumer provides the creditor with sufficient documentation to demonstrate that the consumer received homeownership counseling from organizations or counselors certified by the Secretary of Housing and Urban Development as competent to provide such counseling.

''(l) ANNUAL CONTACT INFORMATION.—At least once annually and whenever there is a change in ownership of a residential mortgage loan, the servicer with respect to a residential mortgage loan shall provide a written notice to the consumer identifying the name of the creditor or any assignee or securitizer who should be contacted by the consumer for any reason concerning the consumer's rights with respect to the loan.''.

(b) CONFORMING AMENDMENT RELATING TO ENFORCEMENT.—Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by inserting after paragraph (6) the following new paragraph:

''(7) sections 21B and 21C of the Securities Exchange Act of 1934, in the case of a broker or dealer, other than a depository institution, by the Securities and Exchange Commission.''.

SEC. 207. RULE OF CONSTRUCTION.

Except as otherwise expressly provided in section 129A or 129B of the Truth in Lending Act (as added by this Act), no provision of such section 129A or 129B shall be construed as superseding, repealing, or affecting any duty, right, obligation, privilege, or remedy of any person under any other provision of the Truth in Lending Act or any other provision of Federal or State law.

SEC. 208. EFFECT ON STATE LAWS.

(a) IN GENERAL.—Section 129B(d) of the Truth in Lending Act (as added by section 204) shall supersede any State law that provides additional remedies against any assignee, securitizer, or securitization vehicle, and the remedies described in such section shall constitute the sole remedies against any assignee, securitizer, or securitization vehicle, for a violation of subsection (a) or (b) of section 129B of such Act (relating to ability to repay or net tangible benefit) or any other State law arising out of or relating to the specific subject matter of subsection (a) or (b) of such section 129B.

(b) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting the application of any State law against a creditor. Nor shall any provision of this section be construed as limiting the application of any State law against any assignee, securitizer, or securitization vehicle that does not arise out of or relate to, or provide additional remedies in connection with, the specific subject matter of subsection (a) or (b) of section 129B of the Truth in Lending Act.

SEC. 209. REGULATIONS.

Regulations required or authorized to be prescribed under this title or the amendments made by this title—

(1) shall be prescribed in final form before the end of the 12-month period beginning on the date of the enactment of this Act; and

(2) shall take effect not later than 18 months after the date of the enactment of this Act.

SEC. 210. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.

(a) INCREASE IN AMOUNT OF CIVIL MONEY PENALTIES FOR CERTAIN VIOLATIONS.—Section 130(a)(2) of the Truth in Lending Act (15 U.S.C. 1640(a)(2)) is amended—

(1) by striking ''$100'' and inserting ''$200'';

(2) by striking ''$1,000'' and inserting ''$2,000'';

(3) by striking ''$200'' and inserting ''$400'';

(4) by striking ''$2,000'' and inserting ''$4,000''; and

(5) by striking ''$500,000'' and inserting ''$1,000,000''.

(b) STATUTE OF LIMITATIONS EXTENDED FOR SECTION 129 VIOLATIONS.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended—

(1) in the first sentence, by striking ''Any action'' and inserting ''Except as provided in the subsequent sentence, any action''; and

(2) by inserting after the first sentence the following new sentence: ''Any action under this section with respect to any violation of section 129 may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 3-year period beginning on the date of the occurrence of the violation.''.

SEC. 211. REQUIRED DISCLOSURES.

(a) ADDITIONAL INFORMATION.—Section 128(a) of Truth in Lending Act (15 U.S.C. 1638(a)) is amended by adding at the end the following new paragraphs:

''(16) In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required under this subsection, the disclosures provided under this subsection shall state the maximum amount of the regular required payments on the loan, based on the maximum interest rate allowed, introduced with the following language in conspicuous type size and format: 'Your payment can go as high as $____', the blank to be filled in with the maximum possible payment amount.

''(17) In the case of a residential mortgage loan for which an escrow or impound account will be established for the payment of all applicable taxes, insurance, and assessments, the following statement: 'Your payments will be increased to cover taxes and insurance. In the first year, you will pay an additional $____ [insert the amount of the monthly payment to the account] every month to cover the costs of taxes and insurance.'.

''(18) In the case of a variable rate residential mortgage loan for which an escrow or impound account will be established for the payment of all applicable taxes, insurance, and assessments—

''(A) the amount of initial monthly payment due under the loan for the payment of principal and interest, and the amount of such initial monthly payment including the monthly payment deposited in the account for the payment of all applicable taxes, insurance, and assessments; and

''(B) the amount of the fully indexed monthly payment due under the loan for the payment of principal and interest, and the amount of such fully indexed monthly payment including the monthly payment deposited in the account for the payment of all applicable taxes, insurance, and assessments.

''(19) In the case of a residential mortgage loan, the aggregate amount of settlement charges for all settlement services provided in connection with the loan, the amount of charges that are included in the loan and the amount of such charges the borrower must pay at closing, the approximate amount of the wholesale rate of funds in connection with the loan, and the aggregate amount of other fees or required payments in connection with the loan.

''(20) In the case of a residential mortgage loan, the aggregate amount of fees paid to the mortgage originator in connection with the loan, the amount of such fees paid directly by the consumer, and any additional amount received by the originator from the creditor based on the interest rate of the loan.''.

(b) TIMING.—Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended by adding at the end the following new paragraph:

''(4) RESIDENTIAL MORTGAGE LOAN DISCLOSURES.—In the case of a residential mortgage loan, the information required to be disclosed under subsection (a) with respect to such loan shall be disclosed before the earlier of—

''(A) the time required under the first sentence of paragraph (1); or

''(B) the end of the 3-day period beginning on the date the application for the loan from a consumer is received by the creditor.''.

(c) ENHANCED MORTGAGE LOAN DISCLOSURES.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended—

(1) by striking ''(2) In the'' and inserting the following:

''(2) MORTGAGE DISCLOSURES.—

''(A) IN GENERAL.—In the'';

(2) by striking ''a residential mortgage transaction, as defined in section 103(w)'' and inserting ''any extension of credit that is secured by the dwelling of a consumer'';

(3) by striking ''shall be made in accordance'' and all that follows through ''extended, or'';

(4) by striking ''If the'' and all that follows through the end of the paragraph and inserting the following new subparagraphs:

''(B) STATEMENT AND TIMING OF DISCLOSURES.—In the case of an extension of credit that is secured by the dwelling of a consumer, in addition to the other disclosures required by subsection (a), the disclosures provided under this paragraph shall state in conspicuous type size and format, the following: 'You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.'.

''(i) state in conspicuous type size and format, the following: 'You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.'; and

''(ii) be furnished to the borrower not later than 7 business days before the date of consummation of the transaction, subject to subparagraph (D).

''(C) VARIABLE RATES OR PAYMENT SCHEDULES.—In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection (a), the disclosures provided under this paragraph shall label the payment schedule as follows: 'Payment Schedule: Payments Will Vary Based on Interest Rate Changes.'.

''(D) UPDATING APR.—In any case in which the disclosure statement provided 7 business days before the date of consummation of the transaction contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.''.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

For fiscal years 2008, 2009, 2010, 2011, and 2012, there are authorized to be appropriated to the Attorney General a total of—

(1) $31,250,000 to support the employment of 30 additional agents of the Federal Bureau of Investigation and 2 additional dedicated prosecutors at the Department of Justice to coordinate prosecution of mortgage fraud efforts with the offices of the United States Attorneys; and

(2) $750,000 to support the operations of interagency task forces of the Federal Bureau of Investigation in the areas with the 15 highest concentrations of mortgage fraud.

SEC. 213. EFFECTIVE DATE.

The amendments made by this title shall apply to transactions consummated on or after the effective date of the regulations specified in Section 209.

TITLE III—HIGH-COST MORTGAGES

SEC. 301. DEFINITIONS RELATING TO HIGH-COST MORTGAGES.

(a) HIGH-COST MORTGAGE DEFINED.—Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended by striking all that precedes paragraph (2) and inserting the following:

''(aa) HIGH-COST MORTGAGE.—

''(1) DEFINITION.—

''(A) IN GENERAL.—The term 'high-cost mortgage', and a mortgage referred to in this subsection, means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a reverse mortgage transaction, if—

''(i) in the case of a credit transaction secured—

''(I) by a first mortgage on the consumer's principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 8 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

''(II) by a subordinate or junior mortgage on the consumer's principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor;

''(ii) the total points and fees payable in connection with the transaction exceed—

''(I) in the case of a transaction for $20,000 or more, 5 percent (8 percent if the dwelling is personal property) of the total transaction amount; or

''(II) in the case of a transaction for less than $20,000, the lesser of 8 percent of the total transaction amount or $1,000; or

''(iii) the credit transaction documents permit the creditor to charge or collect prepayment fees or penalties more than 36 months after the transaction closing or such fees or penalties exceed, in the aggregate, more than 2 percent of the amount prepaid.

''(B) INTRODUCTORY RATES TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(i), the annual percentage rate of interest shall be determined based on the following interest rate:

''(i) In the case of a fixed-rate transaction in which the annual percentage rate will not vary during the term of the loan, the interest rate in effect on the date of consummation of the transaction.

''(ii) In the case of a transaction in which the rate of interest varies solely in accordance with an index, the interest rate determined by adding the index rate in effect on the date of consummation of the transaction to the maximum margin permitted at any time during the transaction agreement.

''(iii) In the case of any other transaction in which the rate may vary at any time during the term of the loan for any reason, the interest charged on the transaction at the maximum rate that may be charged during the term of the transaction.''.

(b) ADJUSTMENT OF PERCENTAGE POINTS.—Section 103(aa)(2) of the Truth in Lending Act (15 U.S.C. 1602(aa)(2)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

''(B) An increase or decrease under subparagraph (A)—

''(i) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(I) being less than 6 percentage points or greater than 10 percentage points; and

''(ii) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(II) being less than 8 percentage points or greater than 12 percentage points.''.

(c) POINTS AND FEES DEFINED.—

(1) IN GENERAL.—Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended—

(A) by striking subparagraph (B) and inserting the following:

''(B) all compensation paid directly or indirectly by a consumer or creditor to a mortgage broker from any source, including a mortgage originator that originates a loan in the name of the originator in a table-funded transaction;'';

(B) in subparagraph (C)(ii), by inserting ''except where applied to the charges set forth in section 106(e)(1) where a creditor may receive indirect compensation solely as a result of obtaining distributions of profits from an affiliated entity based on its ownership interest in compliance with section 8(c)(4) of the Real Estate Settlement Procedures Act of 1974'' before the semicolon at the end;

(C) in subparagraph (C)(iii), by striking ''; and'' and inserting '', except as provided for in clause (ii);'';

(D) by redesignating subparagraph (D) as subparagraph (G); and

(E) by inserting after subparagraph (C) the following new subparagraphs:

''(D) premiums or other charges payable at or before closing for any credit life, credit disability, credit unemployment, or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor;

''(E) except as provided in subsection (cc), the maximum prepayment fees and penalties which may be charged or collected under the terms of the credit transaction;

''(F) all prepayment fees or penalties that are incurred by the consumer if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and''.

(2) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS.—Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following new paragraph:

''(5) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS.—In the case of open-end consumer credit plans, points and fees shall be calculated, for purposes of this section and section 129, by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the credit transaction, plus the minimum additional fees the consumer would be required to pay to draw down an amount equal to the total credit line.''.

(d) HIGH COST MORTGAGE LENDER.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by striking the last sentence and inserting the following new sentence: ''Any person who originates or brokers 2 or more mortgages referred to in subsection (aa) in any 12-month period, any person who originates 1 or more such mortgages through a mortgage broker in any 12 month period, or, in connection with a table funding transaction of such a mortgage, any person to whom the obligation is initially assigned at or after settlement shall be considered to be a creditor for purposes of this title.''.

(e) BONA FIDE DISCOUNT LOAN DISCOUNT POINTS AND PREPAYMENT PENALTIES.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by inserting after subsection (cc) (as added by section 121) the following new subsection:

''(dd) BONA FIDE DISCOUNT POINTS AND PREPAYMENT PENALTIES.—For the purposes of determining the amount of points and fees for purposes of subsection (aa), either the amounts described in paragraphs (1) or (4) of the following paragraphs, but not both, may be excluded:

''(1) EXCLUSION OF BONA FIDE DISCOUNT POINTS.—The discount points described in 1 of the following subparagraphs shall be excluded from determining the amounts of points and fees with respect to a high-cost mortgage for purposes of subsection (aa):

''(A) Up to and including 2 bona fide discount points payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage's interest rate will be discounted does not exceed by more than 1 percentage point the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater.

''(B) Unless 2 bona fide discount points have been excluded under subparagraph (A), up to and including 1 bona fide discount point payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage's interest rate will be discounted does not exceed by more than 2 percentage points the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'bona fide discount points' means loan discount points which are knowingly paid by the consumer for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the mortgage.

''(3) EXCEPTION FOR INTEREST RATE REDUCTIONS INCONSISTENT WITH INDUSTRY NORMS.—Paragraph (1) shall not apply to discount points used to purchase an interest rate reduction unless the amount of the interest rate reduction purchased is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.

''(4) ALLOWANCE OF CONVENTIONAL PREPAYMENT PENALTY.—Subsection (aa)(1)(4)(E) shall not apply so as to include a prepayment penalty or fee that is authorized by law other than this title and may be imposed pursuant to the terms of a high-cost mortgage (or other consumer credit transaction secured by the consumer's principal dwelling) if—

''(A) the annual percentage rate applicable with respect to such mortgage or transaction (as determined for purposes of subsection (aa)(1)(A)(i))—

''(i) in the case of a first mortgage on the consumer's principal dwelling, does not exceed by more than 2 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

''(ii) in the case of a subordinate or junior mortgage on the consumer's principal dwelling, does not exceed by more than 4 percentage points the yield on such Treasury securities; and

''(B) the total amount of any prepayment fees or penalties permitted under the terms of the high-cost mortgage or transaction does not exceed 2 percent of the amount prepaid.''.

SEC. 302. AMENDMENTS TO EXISTING REQUIREMENTS FOR CERTAIN MORTGAGES.

(a) PREPAYMENT PENALTY PROVISIONS.—Section 129(c)(2) of the Truth in Lending Act (15 U.S.C. 1639(c)(2)) is amended—

(1) by striking ''and'' after the semicolon at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

''(D) the amount of the principal obligation of the mortgage exceeds the maximum principal obligation limitation (for the applicable size residence) under section 203(b)(2) of the National Housing Act for the area in which the residence subject to the mortgage is located; and''.

(b) NO BALLOON PAYMENTS.—Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended to read as follows:

''(e) NO BALLOON PAYMENTS.—No high-cost mortgage may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This subsection shall not apply when the payment schedule is adjusted to the seasonal or irregular income of the consumer.''.

(c) NO LENDING WITHOUT DUE REGARD TO ABILITY TO REPAY.—Section 129(h) of the Truth in Lending Act (15 U.S.C. 1639(h)) is amended—

(1) by striking ''PAYMENT ABILITY OF CONSUMER.—A creditor shall not'' and inserting ''PAYMENT ABILITY OF CONSUMER.—

''(1) PATTERN OR PRACTICE.—

''(A) IN GENERAL.—A creditor shall not'';

(2) by inserting after subparagraph (A) (as so designated by paragraph (1) of this subsection) the following new subparagraph:

''(B) PRESUMPTION OF VIOLATION.—There shall be a presumption that a creditor has violated this subsection if the creditor engages in a pattern or practice of making high-cost mortgages without verifying or documenting the repayment ability of consumers with respect to such mortgages.''; and

(3) by adding at the end the following new paragraph:

''(2) PROHIBITION ON EXTENDING CREDIT WITHOUT REGARD TO PAYMENT ABILITY OF CONSUMER.—

''(A) IN GENERAL.—A creditor may not extend credit to a consumer under a high-cost mortgage unless a reasonable creditor would believe at the time the mortgage is closed that the consumer or consumers that are residing or will reside in the residence subject to the mortgage will be able to make the scheduled payments associated with the mortgage, based upon a consideration of current and expected income, current obligations, employment status, and other financial resources, other than equity in the residence.

''(B) PRESUMPTION OF ABILITY.—For purposes of this subsection, there shall be a rebuttable presumption that a consumer is able to make the scheduled payments to repay the obligation if, at the time the high-cost mortgage is consummated, the consumer's total monthly debts, including amounts under the mortgage, do not exceed 50 percent of his or her monthly gross income as verified by tax returns, payroll receipts, or other third-party income verification.''.

SEC. 303. ADDITIONAL REQUIREMENTS FOR CERTAIN MORTGAGES.

(a) ADDITIONAL REQUIREMENTS FOR CERTAIN MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended—

(1) by redesignating subsections (j), (k) and (l) as subsections (n), (o) and (p) respectively; and

(2) by inserting after subsection (i) the following new subsections:

''(j) RECOMMENDED DEFAULT.—No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a high-cost mortgage that refinances all or any portion of such existing loan or debt.

''(k) LATE FEES.—

''(1) IN GENERAL.—No creditor may impose a late payment charge or fee in connection with a high-cost mortgage—

''(A) in an amount in excess of 4 percent of the amount of the payment past due;

''(B) unless the loan documents specifically authorize the charge or fee;

''(C) before the end of the 15-day period beginning on the date the payment is due, or in the case of a loan on which interest on each installment is paid in advance, before the end of the 30-day period beginning on the date the payment is due; or

''(D) more than once with respect to a single late payment.

''(2) COORDINATION WITH SUBSEQUENT LATE FEES.—If a payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, and the only delinquency or insufficiency of payment is attributable to any late fee or delinquency charge assessed on any earlier payment, no late fee or delinquency charge may be imposed on such payment.

''(3) FAILURE TO MAKE INSTALLMENT PAYMENT.—If, in the case of a loan agreement the terms of which provide that any payment shall first be applied to any past due principal balance, the consumer fails to make an installment payment and the consumer subsequently resumes making installment payments but has not paid all past due installments, the creditor may impose a separate late payment charge or fee for any principal due (without deduction due to late fees or related fees) until the default is cured.

''(l) ACCELERATION OF DEBT.—No high-cost mortgage may contain a provision which permits the creditor, in its sole discretion, to accelerate the indebtedness. This provision shall not apply when repayment of the loan has been accelerated by default, pursuant to a due-on-sale provision, or pursuant to a material violation of some other provision of the loan documents unrelated to the payment schedule.

''(m) RESTRICTION ON FINANCING POINTS AND FEES.—No creditor may directly or indirectly finance, in connection with any high-cost mortgage, any of the following:

''(1) Any prepayment fee or penalty payable by the consumer in a refinancing transaction if the creditor or an affiliate of the creditor is the noteholder of the note being refinanced.

''(2) Any points or fees.''.

(b) PROHIBITIONS ON EVASIONS.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (p) (as so redesignated by subsection (a)(1)) the following new subsection:

''(q) PROHIBITIONS ON EVASIONS, STRUCTURING OF TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—A creditor may not take any action in connection with a high-cost mortgage—

''(1) to structure a loan transaction as an open-end credit plan or another form of loan for the purpose and with the intent of evading the provisions of this title; or

''(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this title.''.

(c) MODIFICATION OR DEFERRAL FEES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (q) (as added by subsection (b) of this section) the following new subsection:

''(r) MODIFICATION AND DEFERRAL FEES PROHIBITED.—A creditor may not charge a consumer any fee to modify, renew, extend, or amend a high-cost mortgage, or to defer any payment due under the terms of such mortgage, unless the modification, renewal, extension or amendment results in a lower annual percentage rate on the mortgage for the consumer and then only if the amount of the fee is comparable to fees imposed for similar transactions in connection with consumer credit transactions that are secured by a consumer's principal dwelling and are not high-cost mortgages.''.

(d) PAYOFF STATEMENT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (r) (as added by subsection (c) of this section) the following new subsection:

''(s) PAYOFF STATEMENT.—

''(1) FEES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no creditor or servicer may charge a fee for informing or transmitting to any person the balance due to pay off the outstanding balance on a high-cost mortgage.

''(B) TRANSACTION FEE.—When payoff information referred to in subparagraph (A) is provided by facsimile transmission or by a courier service, a creditor or servicer may charge a processing fee to cover the cost of such transmission or service in an amount not to exceed an amount that is comparable to fees imposed for similar services provided in connection with consumer credit transactions that are secured by the consumer's principal dwelling and are not high-cost mortgages.

''(C) FEE DISCLOSURE.—Prior to charging a transaction fee as provided in subparagraph (B), a creditor or servicer shall disclose that payoff balances are available for free pursuant to subparagraph (A).

''(D) MULTIPLE REQUESTS.—If a creditor or servicer has provided payoff information referred to in subparagraph (A) without charge, other than the transaction fee allowed by subparagraph (B), on 4 occasions during a calendar year, the creditor or servicer may thereafter charge a reasonable fee for providing such information during the remainder of the calendar year.

''(2) PROMPT DELIVERY.—Payoff balances shall be provided within 5 business days after receiving a request by a consumer or a person authorized by the consumer to obtain such information.''.

(e) PRE-LOAN COUNSELING REQUIRED.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (s) (as added by subsection (d) of this section) the following new subsection:

''(t) PRE-LOAN COUNSELING.—

''(1) IN GENERAL.—A creditor may not extend credit to a consumer under a high-cost mortgage without first receiving certification from a counselor that is approved by the Secretary of Housing and Urban Development, or at the discretion of the Secretary, a state housing finance authority, that the consumer has received counseling on the advisability of the mortgage. Such counselor shall not be employed by the creditor or an affiliate of the creditor or be affiliated with the creditor.

''(2) DISCLOSURES REQUIRED PRIOR TO COUNSELING.—No counselor may certify that a consumer has received counseling on the advisability of the high-cost mortgage unless the counselor can verify that the consumer has received each statement required (in connection with such loan) by this section or the Real Estate Settlement Procedures Act of 1974 with respect to the transaction.

''(3) REGULATIONS.—The Secretary of Housing and Urban Development may prescribe such regulations as the Secretary determines to be appropriate to carry out the requirements of paragraph (1).''.

(f) FLIPPING PROHIBITED.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (t) (as added by subsection (e)) the following new subsection:

''(u) FLIPPING.—

''(1) IN GENERAL.—No creditor may knowingly or intentionally engage in the unfair act or practice of flipping in connection with a high-cost mortgage.

''(2) FLIPPING DEFINED.—For purposes of this subsection, the term 'flipping' means the making of a loan or extension of credit in the form a high-cost mortgage to a consumer which refinances an existing mortgage when the new loan or extension of credit does not have reasonable, tangible net benefit to the consumer considering all of the circumstances, including the terms of both the new and the refinanced loans or credit, the cost of the new loan or credit, and the consumer's circumstances.

''(3) TANGIBLE NET BENEFIT.—The Board may prescribe regulations, in the discretion of the Board, defining the term 'tangible net benefit' for purposes of this subsection.''.

SEC. 304. AMENDMENT TO PROVISION GOVERNING CORRECTION OF ERRORS.

Section 130(b) of the Truth in Lending Act (15 U.S.C. 1640(b)) is amended to read as follows:

''(b) CORRECTION OF ERRORS.—A creditor has no liability under this section or section 108 or 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if—

''(1) within 30 days of the loan closing and prior to the institution of any action, the consumer is notified of or discovers the violation, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer—

''(A) make the loan satisfy the requirements of this chapter; or

''(B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial to the consumer so that the loan will no longer be a high-cost mortgage; or

''(2) within 60 days of the creditor's discovery or receipt of notification of an unintentional violation or bona fide error as described in subsection (c) and prior to the institution of any action, the consumer is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer—

''(A) make the loan satisfy the requirements of this chapter; or

''(B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial so that the loan will no longer be a high-cost mortgage.''.

SEC. 305. REGULATIONS.

(a) IN GENERAL.—The Board of Governors of the Federal Reserve System shall publish regulations implementing this title and the amendments made by this title in final form before the end of the 6-month period beginning on the date of the enactment of this Act.

(b) CONSUMER MORTGAGE EDUCATION.—

(1) REGULATIONS.—The Board of Governors of the Federal Reserve System may prescribe regulations requiring or encouraging creditors to provide consumer mortgage education to prospective customers or direct such customers to qualified consumer mortgage education or counseling programs in the vicinity of the residence of the consumer.

(2) COORDINATION WITH STATE LAW.—No requirement established by the Board of Governors of the Federal Reserve System pursuant to paragraph (1) shall be construed as affecting or superseding any requirement under the law of any State with respect to consumer mortgage counseling or education.

SEC. 306. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of the enactment of this Act and shall apply to mortgages referred to in section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa) consummated on or after that date.

TITLE IV—OFFICE OF HOUSING COUNSELING

SEC. 401. SHORT TITLE.

This title may be cited as the ''Expand and Preserve Home Ownership Through Counseling Act''.

SEC. 402. ESTABLISHMENT OF OFFICE OF HOUSING COUNSELING.

Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding at the end the following new subsection:

''(g) OFFICE OF HOUSING COUNSELING.—

''(1) ESTABLISHMENT.—There is established, in the Office of the Secretary, the Office of Housing Counseling.

''(2) DIRECTOR.—There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

''(3) FUNCTIONS.—

''(A) IN GENERAL.—The Director shall have ultimate responsibility within the Department, except for the Secretary, for all activities and matters relating to homeownership counseling and rental housing counseling, including—

''(i) research, grant administration, public outreach, and policy development relating to such counseling; and

''(ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling.

''(B) SPECIFIC FUNCTIONS.—The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for—

''(i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1));

''(ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;

''(iii) carrying out section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) for home buying information booklets prepared pursuant to such section;

''(iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e));

''(v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance;

''(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 of the Expand and Preserve Home Ownership Through Counseling Act;

''(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;

''(viii) collaborating with community-based organizations with expertise in the field of housing counseling; and

''(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services.

''(4) ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.

''(B) MEMBERS.—Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent all aspects of the mortgage and real estate industry, including consumers.

''(C) TERMS.—Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.

''(D) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.

''(E) PROHIBITION OF PAY; TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

''(F) ADVISORY ROLE ONLY.—The advisory committee shall have no role in reviewing or awarding housing counseling grants.

''(5) SCOPE OF HOMEOWNERSHIP COUNSELING.—In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.''.

SEC. 403. COUNSELING PROCEDURES.

(a) IN GENERAL.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

''(g) PROCEDURES AND ACTIVITIES.—

''(1) COUNSELING PROCEDURES.—

''(A) IN GENERAL.—The Secretary shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for homeownership counseling and rental housing counseling provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and rental housing counseling.

''(B) HOMEOWNERSHIP COUNSELING.—For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term 'homeownership counseling' means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to—

''(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));

''(ii) in the United States Housing Act of 1937—

''(I) section 9(e) (42 U.S.C. 1437g(e));

''(II) section 8(y)(1)(D) (42 U.S.C. 1437f(y)(1)(D));

''(III) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

''(IV) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

''(V) section 32(e)(4) (42 U.S.C. 1437z–4(e)(4));

''(VI) section 33(d)(2)(B) (42 U.S.C. 1437z–5(d)(2)(B));

''(VII) sections 302(b)(6) and 303(b)(7) (42 U.S.C. 1437aaa–1(b)(6), 1437aaa–2(b)(7)); and

''(VIII) section 304(c)(4) (42 U.S.C. 1437aaa–3(c)(4));

''(iii) section 302(a)(4) of the American Homeownership and Economic Opportunity Act of 2000 (42 U.S.C. 1437f note);

''(iv) sections 233(b)(2) and 258(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2), 12808(b));

''(v) this section and section 101(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x, 1701w(e));

''(vi) section 220(d)(2)(G) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(G));

''(vii) sections 422(b)(6), 423(b)(7), 424(c)(4), 442(b)(6), and 443(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6), 12873(b)(7), 12874(c)(4), 12892(b)(6), and 12893(b)(6));

''(viii) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));

''(ix) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));

''(x) in the National Housing Act—

''(I) in section 203 (12 U.S.C. 1709), the penultimate undesignated paragraph of paragraph (2) of subsection (b), subsection (c)(2)(A), and subsection (r)(4);

''(II) subsections (a) and (c)(3) of section 237 (12 U.S.C. 1715z–2); and

''(III) subsections (d)(2)(B) and (m)(1) of section 255 (12 U.S.C. 1715z–20);

''(xi) section 502(h)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(h)(4)(B)); and

''(xii) section 508 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–7).

''(C) RENTAL HOUSING COUNSELING.—For purposes of this subsection, the term 'rental housing counseling' means counseling related to rental of residential property, which may include counseling regarding future homeownership opportunities and providing referrals for renters and prospective renters to entities providing counseling and shall include counseling related to such topics that is provided pursuant to—

''(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));

''(ii) in the United States Housing Act of 1937—

''(I) section 9(e) (42 U.S.C. 1437g(e));

''(II) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

''(III) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

''(IV) section 32(e)(4) (42 U.S.C. 1437z–4(e)(4));

''(V) section 33(d)(2)(B) (42 U.S.C. 1437z–5(d)(2)(B)); and

''(VI) section 302(b)(6) (42 U.S.C. 1437aaa–1(b)(6));

''(iii) section 233(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2));

''(iv) section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x);

''(v) section 422(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6));

''(vi) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));

''(vii) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A)); and

''(viii) the rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

''(2) STANDARDS FOR MATERIALS.—The Secretary, in conjunction with the advisory committee established under subsection (g)(4) of the Department of Housing and Urban Development Act, shall establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services, including any recipients of assistance pursuant to subsection (a)(4).

''(3) MORTGAGE SOFTWARE SYSTEMS.—

''(A) CERTIFICATION.—The Secretary shall provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals. The Secretary shall require, for such certification, that the mortgage software systems take into account—

''(i) the consumer's financial situation and the cost of maintaining a home, including insurance, taxes, and utilities;

''(ii) the amount of time the consumer expects to remain in the home or expected time to maturity of the loan;

''(iii) such other factors as the Secretary considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process.

If the Secretary determines that available existing software is inadequate to assist consumers during the residential mortgage loan application process, the Secretary shall arrange for the development by private sector software companies of new mortgage software systems that meet the Secretary's specifications.

''(B) USE AND INITIAL AVAILABILITY.—Such certified computer software programs shall be

used to supplement, not replace, housing counseling. The Secretary shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e).

''(C) AVAILABILITY.—After a period of initial availability under subparagraph (B) as the Secretary considers appropriate, the Secretary shall take reasonable steps to make mortgage software systems certified pursuant to this paragraph widely available through the Internet and at public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers.

''(4) NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGNS TO PROMOTE HOUSING COUNSELING.—

''(A) IN GENERAL.—The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a home, elderly persons, persons who face language barriers, low-income persons, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from an unbiased and reliable sources and that such homeownership counseling is available, including through programs sponsored by the Secretary of Housing and Urban Development.

''(B) CONTACT INFORMATION.—Each segment of the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and web site of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their State that is certified by the Secretary of Housing and Urban Development and can provide advice on buying a home, renting, defaults, foreclosures, credit issues, and reverse mortgages.

''(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for fiscal years 2008, 2009, and 2010, for the develop, implement, and conduct of national public service multimedia campaigns under this paragraph.

''(5) EDUCATION PROGRAMS.—The Secretary shall provide advice and technical assistance to States, units of general local government, and nonprofit organizations regarding the establishment and operation of, including assistance with the development of content and materials for, educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as elderly persons, persons facing language barriers, low-income persons, and other potentially vulnerable consumers), regarding home mortgages, mortgage refinancing, home equity loans, and home repair loans.''.

(b) CONFORMING AMENDMENTS TO GRANT PROGRAM FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (III), by striking ''and'' at the end;

(2) in subclause (IV) by striking the period at the end and inserting ''; and''; and

(3) by inserting after subclause (IV) the following new subclause:

''(V) notify the housing or mortgage applicant of the availability of mortgage software systems provided pursuant to subsection (g)(3).''.

SEC. 404. GRANTS FOR HOUSING COUNSELING ASSISTANCE.

Section 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by adding at the end the following new paragraph:

''(4) HOMEOWNERSHIP AND RENTAL COUNSELING ASSISTANCE.—

''(A) IN GENERAL.—The Secretary shall make financial assistance available under this paragraph to States, units of general local governments, and nonprofit organizations providing homeownership or rental counseling (as such terms are defined in subsection (g)(1)).

''(B) QUALIFIED ENTITIES.—The Secretary shall establish standards and guidelines for eligibility of organizations (including governmental and nonprofit organizations) to receive assistance under this paragraph.

''(C) DISTRIBUTION.—Assistance made available under this paragraph shall be distributed in a manner that encourages efficient and successful counseling programs.

''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $45,000,000 for each of fiscal years 2008 through 2011 for—

''(i) the operations of the Office of Housing Counseling of the Department of Housing and Urban Development;

''(ii) the responsibilities of the Secretary under paragraphs (2) through (5) of subsection (g); and

''(iii) assistance pursuant to this paragraph for entities providing homeownership and rental counseling.''.

SEC. 405. REQUIREMENTS TO USE HUD-CERTIFIED COUNSELORS UNDER HUD PROGRAMS.

Section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (a)(4), (c), or (d) of this section, or under section 101(e), unless the organization, or the individuals through which the organization provides such counseling, has been certified by the Secretary under this subsection as competent to provide such counseling.'';

(2) in paragraph (2)—

(A) by inserting ''and for certifying organizations'' before the period at the end of the first sentence; and

(B) in the second sentence by striking ''for certification'' and inserting '', for certification of an organization, that each individual through which the organization provides counseling shall demonstrate, and, for certification of an individual,'';

(3) in paragraph (3), by inserting ''organizations and'' before ''individuals'';

(4) by redesignating paragraph (3) as paragraph (5); and

(5) by inserting after paragraph (2) the following new paragraphs:

''(3) REQUIREMENT UNDER HUD PROGRAMS.—Any homeownership counseling or rental housing counseling (as such terms are defined in subsection (g)(1)) required under, or provided in connection with, any program administered by the Department of Housing and Urban Development shall be provided only by organizations or counselors certified by the Secretary under this subsection as competent to provide such counseling.

''(4) OUTREACH.—The Secretary shall take such actions as the Secretary considers appropriate to ensure that individuals and organizations providing homeownership or rental housing counseling are aware of the certification requirements and standards of this subsection and of the training and certification programs under subsection (f).''.

SEC. 406. STUDY OF DEFAULTS AND FORECLOSURES.

The Secretary of Housing and Urban Development shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as are available. The study shall also examine the role of escrow accounts in helping prime and nonprime borrowers to avoid defaults and foreclosures. Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a preliminary report regarding the study. Not later than 24 months after such date of enactment, the Secretary shall submit a final report regarding the results of the study, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to identify populations that need counseling the most.

SEC. 407. DEFINITIONS FOR COUNSELING-RELATED PROGRAMS.

Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

''(h) DEFINITIONS.—For purposes of this section:

''(1) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' has the meaning given such term in section 104(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(5)), except that subparagraph (D) of such section shall not apply for purposes of this section.

''(2) STATE.—The term 'State' means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States.

''(3) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' means any city, county, parish, town, township, borough, village, or other general purpose political subdivision of a State.''.

SEC. 408. UPDATING AND SIMPLIFICATION OF MORTGAGE INFORMATION BOOKLET.

Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended—

(1) in the section heading, by striking ''SPECIAL'' and inserting ''HOME BUYING'';

(2) by striking subsections (a) and (b) and inserting the following new subsections:

''(a) PREPARATION AND DISTRIBUTION.—The Secretary shall prepare, at least once every 5 years, a booklet to help consumers applying for federally related mortgage loans to understand the nature and costs of real estate settlement services. The Secretary shall prepare the booklet in various languages and cultural styles, as the Secretary determines to be appropriate, so that the booklet is understandable and accessible to homebuyers of different ethnic and cultural backgrounds. The Secretary shall distribute such booklets to all lenders that make federally related mortgage loans. The Secretary shall also distribute to such lenders lists, organized by location, of homeownership counselors certified under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) for use in complying with the requirement under subsection (c) of this section.

''(b) CONTENTS.—Each booklet shall be in such form and detail as the Secretary shall prescribe and, in addition to such other information as the Secretary may provide, shall include in plain and understandable language the following information:

''(1) A description and explanation of the nature and purpose of the costs incident to a real estate settlement or a federally related mortgage loan. The description and explanation shall provide general information about the mortgage process as well as specific information concerning, at a minimum—

''(A) balloon payments;

''(B) prepayment penalties; and

''(C) the trade-off between closing costs and the interest rate over the life of the loan.

''(2) An explanation and sample of the uniform settlement statement required by section 4.

''(3) A list and explanation of lending practices, including those prohibited by the Truth in Lending Act or other applicable Federal law, and of other unfair practices and unreasonable

or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.

''(4) A list and explanation of questions a consumer obtaining a federally related mortgage loan should ask regarding the loan, including whether the consumer will have the ability to repay the loan, whether the consumer sufficiently shopped for the loan, whether the loan terms include prepayment penalties or balloon payments, and whether the loan will benefit the borrower.

''(5) An explanation of the right of rescission as to certain transactions provided by sections 125 and 129 of the Truth in Lending Act.

''(6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled 'Consumer Handbook on Adjustable Rate Mortgages', published by the Board of Governors of the Federal Reserve System pursuant to section 226.19(b)(1) of title 12, Code of Federal Regulations, or to any suitable substitute of such booklet that such Board of Governors may subsequently adopt pursuant to such section.

''(7) A brief explanation of the nature of a home equity line of credit and a reference to the pamphlet required to be provided under section 127A of the Truth in Lending Act.

''(8) Information about homeownership counseling services made available pursuant to section 106(a)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)), a recommendation that the consumer use such services, and notification that a list of certified providers of homeownership counseling in the area, and their contact information, is available.

''(9) An explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate and the requirements under section 10 of this Act regarding such accounts.

''(10) An explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incidental to a real estate settlement.

''(11) An explanation of a consumer's responsibilities, liabilities, and obligations in a mortgage transaction.

''(12) An explanation of the nature and purpose of real estate appraisals, including the difference between an appraisal and a home inspection.

''(13) Notice that the Office of Housing of the Department of Housing and Urban Development has made publicly available a brochure regarding loan fraud and a World Wide Web address and toll-free telephone number for obtaining the brochure.

The booklet prepared pursuant to this section shall take into consideration differences in real estate settlement procedures that may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.'';

(3) in subsection (c), by inserting at the end the following new sentence: ''Each lender shall also include with the booklet a reasonably complete or updated list of homeownership counselors who are certified pursuant to section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) and located in the area of the lender.''; and

(4) in subsection (d), by inserting after the period at the end of the first sentence the following: ''The lender shall provide the HUD-issued booklet in the version that is most appropriate for the person receiving it.''.

TITLE V—MORTGAGE DISCLOSURES UNDER REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

SEC. 501. UNIVERSAL MORTGAGE DISCLOSURE IN GOOD FAITH ESTIMATE OF SETTLEMENT SERVICES COSTS.

(a) IN GENERAL.—Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended—

(1) in subsection (c), by adding after the period at the end the following: ''Each such good faith estimate shall include the disclosure required under subsection (f) in the form prescribed by the Secretary pursuant to such subsection, except that if the Secretary at any time issues any regulations requiring the use of a standard or uniform form or statement in providing the good faith estimate required under this subsection and prescribing such standard or uniform form or statement, such disclosure shall not be required after the effective date of such regulations.''; and

(2) by adding at the end the following new subsection:

''(f) UNIVERSAL MORTGAGE DISCLOSURE REQUIREMENT FOR GOOD FAITH ESTIMATES.—

''(1) DISCLOSURE.—The disclosure required under this subsection is a written statement regarding the federally related mortgage loan for which the good faith estimate under subsection (c) is made, that consists of the following statements, appropriately and in good faith completed by the lender in accordance with the terms of the federally related mortgage loan involved in the settlement:

''(A) 'Your Loan Amount will be' and '$________', each statement appearing in a separate column of the disclosure.

''(B) 'Your Loan is', 'A Fixed Rate Loan', and 'An Adjustable Rate Loan ', each statement appearing in a separate column and each of the last two such statements preceded by a checkbox.

''(C) 'Your Loan Term is', '______ years', and '______ years', each statement appearing in a separate column, and the second such statement shall appear in the same column as the statement required by subparagraph (B) regarding fixed rate loans and the third such statement shall appear in the same column as the statement required by subparagraph (B) regarding adjustable rate loans;

''(D) 'Your Estimated Interest Rate (APR) is', '______%', and '______% initially, then it will adjust. In ______ months, Your rate may adjust to a maximum of ______%', each statement appearing in a separate column, the second such statement shall appear in the same column as the statement required by subparagraph (B) regarding fixed rate loans and the third such statement shall appear in the same column as the statement required by subparagraph (B) regarding adjustable rate loans, and the blanks relating to estimated interest rate shall be completed by the lender using an annual percentage rate determined in accordance with the Truth in Lending Act.

''(E) 'Your Total Estimated Monthly Payment (Including loan Principal and Interest, and property Taxes (based on current rates) and Insurance (PITI)) is', '$________ which represents ______% of Your estimated monthly income', and '$________ which represents ______% of Your estimated monthly income. When Your interest rate initially adjusts, Your maximum monthly payment may be as high as $________ which represents ______% of Your estimated monthly income', each statement appearing in a separate column, and the second such statement shall appear in the same column as the statement required by subparagraph (B) regarding fixed rate loans and the third such statement shall appear in the same column as the statement required by subparagraph (B) regarding adjustable rate loans.

''(F) 'Your Rate Lock Period is' and '______ days. After You lock into Your interest rate, You must go to settlement within this number of days to be guaranteed this interest rate.', each statement appearing in a separate column.

''(G) 'Does Your loan have a prepayment penalty?', 'YES, Your maximum prepayment penalty is $________', and 'NO', the first such statement and the last two such statements appearing in a separate column, and each of the last two such statements preceded by a checkbox.

''(H) 'Does Your loan have a balloon payment?', 'YES, Your balloon payment of $________ is due in ______ months', and 'NO', the first such statement and the last two such statements appearing in a separate column, and each of the last two such statements preceded by a checkbox.

''(I) 'Your Total Estimated Settlement Charges Will be $________ (a)' and 'Your Total Estimated Down Payment will be $________ (b)', each statement appearing in a separate column.

''(J) 'Your Total Estimated Cash Needed at Closing Will Be' and '$________ (a+b)', each statement appearing in a separate column.

''(K) 'This represents a simple summary of Your Good Faith Estimate (GFE). To understand the terms of Your loan, You must see disclosure forms and the Truth in Lending Act.', such statement appearing directly below the entirety of the remainder of the disclosure.

''(2) STANDARD FORM.—

''(A) DEVELOPMENT AND USE.—The Secretary, in consultation with the Secretary of Veterans Affairs, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision, shall develop and prescribe a standard form for the disclosure required under this subsection, which shall be used without variation in all transactions in the United States that involve federally related mortgage loans.

''(B) APPEARANCE.—The standard form developed pursuant to this paragraph shall—

''(i) set forth each statement required under a separate subparagraph under paragraph (1) on a separate row of the disclosure;

''(ii) be set forth in 8-point type;

''(iii) be not more than 6 inches in width or 3.5 inches in height;

''(iv) include such boldface type and shading as the Secretary considers appropriate;

''(v) include such parenthetical statements directing the borrower to the terms of the loan (such as 'see terms') as the Secretary considers appropriate, in such places as the Secretary considers appropriate; and

''(vi) be located in the upper one-third of the first page of the good faith estimate required under subsection (c) in a manner that allows the identity, address, phone number, and other relevant information of the lender, the identity, address, phone number, and other relevant information of the borrower, and the address of the property for which the federally related mortgage loan is to be made, to be located above the standard form.''.

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations prescribing the standard form and the use of such form, as required by the amendment made by subsection (a), not later than the expiration of the 180-day period beginning upon the date of the enactment of this Act, and such regulations shall take effect upon issuance.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110–450. Each amendment may be offered only in the order printed in the report; by a Member designated in the report; shall be considered read; shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment; shall not be subject to amendment except as specified in the report; and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. FRANK OF MASSACHUSETTS

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–450.

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FRANK of Massachusetts:

Page 6, strike line 19 and all that follows through line 22 and insert the following new clause:

(iii) does not include any individual who is not otherwise described in clause (i) or (ii) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause.

Page 19, strike line 16 and all that follows through line 24, and insert the following new subparagraph:

(B) personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

Page 20, line 1, strike ''(b) UNIQUE IDENTIFIER.—The Federal banking agencies'' and insert ''(b) COORDINATION.—

''(1) UNIQUE IDENTIFIER.—The Federal banking agencies''.

Page 20, after line 9, insert the following new paragraph:

(2) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY DEVELOPMENT.—To facilitate the transfer of information required by subsection (a)(2), the Nationwide Mortgage Licensing System and Registry shall coordinate with the Federal banking agencies, through the Financial Institutions Examination Council, concerning the development and operation, by such System and Registry, of the registration functionality and data requirements for loan originators.

Page 37, line 22, strike the closing quotation marks and the second period.

Page 37, after line 22, insert the following new paragraph:

''(10) SERVICER.—The term 'servicer' has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974.''.

Page 38, beginning on line 12, strike '', registered, and, when required, licensed'' and insert ''and, when required, registered and licensed''.

Page 40, line 22, strike ''to repay and'' and all that follows through line 25 and insert ''to repay and, in the case of a refinancing of an existing residential mortgage loan, receives a net tangible benefit, as determined in accordance with regulations prescribed under subsections (a) and (b) of section 129B.''

Page 41, line 20, insert '', the Chairman of the State Liaison Committee to the Financial Institutions Examination Council,'' after ''Secretary''.

Page 43, line 13, strike ''**ANTI-STEERING**'' **AND INSERT ''PROHIBITION ON STEERING INCENTIVES**''.

Page 43, line 18, strike ''IN GENERAL'' and insert ''AMOUNT OF ORIGINATOR COMPENSATION CANNOT VARY BASED ON TERMS''

Page 43, beginning on line 20, strike ''(including yield spread premium)'' and insert '', including yield spread premium or any equivalent compensation or gain,''.

Page 44, line 1, strike ''ANTI-STEERING REGULATIONS'' and insert ''REGULATIONS''.

Page 44, line 9, insert ''(in accordance with regulations prescribed under section 129B(a))'' before the semicolon.

Page 44, line 10, insert ''in the case of a refinancing of a residential mortgage loan,'' after (ii).

Page 44, line 11, insert ''(in accordance with regulations prescribed under section 129B(b))'' before the semicolon.

Page 45, strike line 6 and all that follows through line 11 and insert the following new subparagraph:

''(B) restricting a consumer's ability to finance, including through rate or principal, any origination fees or costs permitted under this subsection, or the originator's ability to receive such fees or costs (including compensation) from any person, so long as such fees or costs were fully and clearly disclosed to the consumer earlier in the application process as required by 129A(a)(1)(C)(ii) and do not vary based on the terms of the loan or the consumer's decision about whether to finance such fees or costs; or''.

Page 61, after line 15, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

''(4) ABSENT PARTIES.—

''(A) ABSENT CREDITOR.—Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) has ceased to exist as a matter of law or has filed for bankruptcy protection under title 11, United States Code, or has had a receiver or liquidating agent appointed, a consumer may maintain a civil action against an assignee to cure, but not rescind, the residential mortgage loan, plus the costs and reasonable attorney's fees incurred in obtaining such remedy.

''(B) ABSENT CREDITOR AND ASSIGNEE.—Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) and each assignee of such loan have ceased to exist as a matter of law or have filed for bankruptcy protection under title 11, United States Code, or have had receivers or liquidating agents appointed, the consumer may maintain the civil action referred to in subparagraph (A) against the securitizer.''.

Page 61, line 23, insert ''and the payment of such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a cure of the loan, including a reasonable attorney's fee'' before the period.

Page 62, line 15, insert ''OR OBTAIN'' after ''PROVIDE''.

Page 62, line 16, insert '', or a consumer cannot obtain,'' after ''cannot provide''.

Page 65, line 6, insert ''and the consumer would have had a valid basis for such an action if it had been brought before the end of such period'' after ''subsection (d)''.

Page 66, beginning on line 21, strike ''that insurance premiums'' and insert ''that—

''(1) insurance premiums''.

Page 66, line 24, strike the period and insert ''; and''.

Page 66, after line 24, insert the following new paragraph:

''(2) this subsection shall not apply to credit unemployment insurance for which the unemployment insurance premiums are reasonable and at no additional cost to the consumer, the creditor receives no direct or indirect compensation in connection with the unemployment insurance premiums, and the unemployment insurance premiums are paid pursuant to another insurance contract and not paid to an affiliate of the creditor.''.

Page 69, strike line 1 and all that follows through line 9 and insert the following new subparagraphs:

''(A) the provision, by the successor in interest, of a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice to vacate.

''(B) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

''(i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease or the end of the 6-month period beginning on the date of the notice of foreclosure, whichever occurs first, subject to the receipt by the tenant of the 90-day notice under subparagraph (A); or

''(ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under subparagraph (A); and''.

Page 69, after line 12, insert the following new subparagraph (and redesignate subsequent subparagraphs accordingly):

''(A) the mortgagor under the contract is not the tenant;''.

Page 69, beginning on line 15, strike ''tenant to pay'' and insert ''receipt of''.

Page 69, line 19, strike ''first-time''.

Page 70, line 17, strike ''the consumer'' and insert ''in the case of a first-time borrower with respect to a residential mortgage loan that is not a qualified mortgage, the first-time borrower''.

Page 71, line 25, insert ''or application thereof'' after ''State law''.

Page 72, strike line 5 and all that follows through line 8, and insert ''of such Act or any other State law the terms of which address the specific subject matter of subsection (a) (determination of ability to repay) or (b) (requirement of a net tangible benefit) of such section 129B.''.

Page 72, strike line 9 and all that follows through line 17 and insert the following new subsection:

(b) RULES OF CONSTRUCTION.—No provision of this section shall be construed as limiting—

(1) the application of any State law against a creditor;

(2) the availability of remedies based upon fraud, misrepresentation, deception, false advertising, or civil rights laws—

(A) against any assignee, securitizer, or securitization vehicle for its own conduct relating to the making of a residential mortgage loan to a consumer; or

(B) against any assignee, securitizer, or securitization vehicle in the sale or purchase of residential mortgage loans or securities; or

(3) the application of any other State law against any assignee, securitizer, or securitization vehicle except as specifically provided in subsection (a) of this section.

Page 79, after line 2, insert the following new section (and redesignate the subsequent sections accordingly):

SEC. 212. DISCLOSURES REQUIRED IN MONTHLY STATEMENTS FOR RESIDENTIAL MORTGAGE LOANS.

Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by adding at the end the following new subsection:

''(e) PERIODIC STATEMENTS FOR RESIDENTIAL MORTGAGE LOANS.—

''(1) IN GENERAL.—The creditor, assignee, or servicer with respect to any residential mortgage loan shall transmit to the obligor, for each billing cycle, a statement setting forth each of the following items, to the extent applicable, in a conspicuous and prominent manner:

''(A) The amount of the principal obligation under the mortgage.

''(B) The current interest rate in effect for the loan.

''(C) The date on which the interest rate may next reset or adjust.

''(D) The amount of any prepayment fee to be charged, if any.

''(E) A description of any late payment fees.

''(F) A telephone number and electronic mail address that may be used by the obligor to obtain information regarding the mortgage.

''(G) Such other information as the Board may prescribe in regulations.

''(2) DEVELOPMENT AND USE OF STANDARD FORM.—The Federal banking agencies shall jointly develop and prescribe a standard form for the disclosure required under this subsection, taking into account that the statements required may be transmitted in writing or electronically.''.

Page 80, line 23, insert ''(10 percentage points, if the dwelling is personal property and the transaction is for less than $50,000)'' after ''8 percentage points''.

Page 81, beginning on line 19, strike ''(8 percent if the dwelling is personal property)''.

Page 100, line 6, strike ''tangible net benefit'' and insert ''net tangible benefit (as determined in accordance with regulations prescribed under section 129B(b))''.

Page 100, line 10, after the period, insert closing quotation marks and a second period.

Page 100, strike line 11 and all that follows through line 14.

Page 102, line 23, insert ''at the end of the 6-month period beginning'' before ''on the date of''.

Page 102, beginning on line 25, strike ''on or after the date'' and insert ''after the end of such period''.

The CHAIRMAN. Pursuant to House Resolution 825, the gentleman from Massachusetts (Mr. FRANK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, first, this bill makes some substantive changes, including one of the things we came across was the problem of people who were renting who lost their right to live there when there was a foreclosure.

We have compromised in this. I have had some conversations; I will have some further ones with the gentleman from Colorado. But we do try to preserve some protection for the renters in the bill. As passed by committee, we had 12 months. This reduces it some to 6 months as the maximum. We will talk more about it.

Beyond that, there are two things that the manager's amendment clarifies, and I have found from some on the consumer side two objections in this bill, and we deal with these in the manager's amendment and we will deal with them further. One is the issue of preemption.

I think a certain amount of preemption is essential if we are going to have a secondary market, but it is possible to read the language previously as preempting more than we meant to. What this amendment does is to make very clear that, no matter what the issue is, if the problem was based on fraud or misrepresentation, deception, or false advertising, there is no preemption. The ability of people to go after anything that was based on misrepresentation or fraud is fully preserved, whether or not it affected their ability to pay.

Secondly, we have—and I am pleased to note that La Raza and the NAACP support this bill—we included at the insistence of the gentleman from North Carolina and the gentleman from California specific language about civil rights violations. No civil rights violation that a State may have would be preempted.

So we have narrowed the preemption. We have made it clear it does not preempt anything growing out of fraud.

The second issue that has led to some concern, and I am about to yield to my friend from North Carolina (Mr. MILLER) has to do with compensation. It was our intention to say that no one who was originating a loan should be given an incentive to put the consumer in a loan that would charge that consumer more than he or she could otherwise get, and we dealt with that.

The question then came about the way in which brokers are compensated, and we tried to provide two things: One, an absolute prohibition on any incentive to charge people more, but, two, not an interference with the way in which people chose to make those payments.

We thought we had the language clear. Some people think it isn't clear enough. One of the things we will do is to make that clearer.

And I would yield on this point to the gentleman from North Carolina.

Mr. MILLER of North Carolina. I thank the gentleman.

I would now like to engage in a colloquy with Mr. FRANK concerning this. And, Mr. Chairman, both Mr. FRANK and I would deeply appreciate a slow gavel on this particular point.

Mr. FRANK, please direct your attention to the language at the bottom of page 5 of the manager's amendment, clarifying the prohibition against payments to loan originators that vary with the terms of the subprime mortgage, which, as Mr. MURPHY of Connecticut has already pointed out, is an important antisteering provision. The abuse that the prohibition addresses is the payment by lenders to originators, most often brokers, known as a yield spread premium.

Under widespread practice now, lenders pay brokers an additional percentage point in a yield spread premium for every additional half point in interest on the mortgage above the rate that the borrower qualified for. Although borrowers sign a piece of paper agreeing to the payment by the lender, the broker hands the borrower the paper and tells the borrower what the borrower is signing, and most borrowers never realize that the broker makes more money the more that the borrower pays for the mortgage.

I agree with Mr. MURPHY of Connecticut, that is a kickback. It is not a legitimate business practice. It needs to change.

Mr. FRANK, as I understand it, the clarifying language in the new subparagraph does not simply permit what the previous subparagraph forbids, but it is directed to limited circumstances and does not allow any additional total compensation for an originator. Just as a buyer may pay discount points at closing to buy down the interest rate over the life of the loan, subparagraph (B) allows a consumer to pay more in interest over the life of the loan in return for lower costs and fees at closing. Is that correct?

Mr. FRANK of Massachusetts. Yes. That is absolutely what I believe the language says, and it is certainly our intent.

Mr. MILLER of North Carolina. And is it also correct that any payment by the lender to the broker, or to use the language of the bill, any incentive compensation paid by any person to any originator, based on a higher interest rate, is still forbidden?

Mr. FRANK of Massachusetts. Yes. I would say, and let me just read the language at the bottom of page 4 of the manager's amendment. Those payments ''do not vary based on the terms of the loan or the consumer's decision about whether to finance.''

So we have tried to make it very explicit: Flexibility in method does not in any way reduce the prohibitions that have been stated against an incentive to charge more. And if it is necessary for us to say that again more clearly, as some people may think it is, we will find new ways to say it.

Mr. MILLER of North Carolina. I am glad that Mr. FRANK earlier embraced redundancy as a virtue, but I want to continue even though it may be redundant.

The CHAIRMAN. The gentleman's time has expired.

Mr. FRANK of Massachusetts. Will the gentleman yield me 15 seconds out of his time?

The CHAIRMAN. The gentleman from Alabama has not yet been recognized.

Does the gentleman rise in opposition to the bill?

Mr. BACHUS. Mr. Chairman, I claim time in opposition, although I am not opposed to the bill.

The CHAIRMAN. Without objection, the gentleman from Alabama is recognized for 5 minutes.

There was no objection.

Mr. BACHUS. I yield 15 seconds to the chairman of the committee.

Mr. MILLER of North Carolina. So a mortgage originator under this subparagraph, the one we were speaking of a moment ago, will get paid exactly the same in total compensation, including both the compensation paid by the borrower and the compensation paid by the lender, whether the interest rate is 6 or 8 or 10. Is that right?

Mr. FRANK of Massachusetts. Yes. And also, the total cost of the loan has to be the same.

Mr. MILLER of North Carolina. And so any compensation paid by the lender will be backed out dollar for dollar from what the borrower had agreed to pay; is that correct?

Mr. FRANK of Massachusetts. Yes, yes, yes. I feel like I am in Ulysses here.

Mr. MILLER of North Carolina. I thank the gentleman.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. I am grateful to my friend the ranking member and to the chairman, and I do oppose the manager's amendment and the bill. And I don't think there is any difference of opinion about the crisis in the mortgage markets in America today. I think the difference is on the impact that this bill will have.

The problem in mortgage markets in America today is that for years we had lenders that were giving teaser rate loans, that were taking no paperwork requirements to prove that borrowers had the ability to buy the home and pay for it. And we had lenders making 100 percent, 110 percent, 120 percent loan-to-value loans. And, obviously, that worked fine when property values were increasing. When property values declined, you have got a crisis.

In essence, what has happened is that we have had this wild galloping horse in the credit markets of mortgages that has gotten loose. Now that horse has gotten very sick. There are none of these loans being made. As a matter of fact, credible buyers with paperwork, with 20 or 30 percent equity, can't get access to mortgage loans today in many instances.

What we are doing for this sick horse is to feed it strychnine. The markets having overreacted, we as Congress are going to pile on and kill the horse with poison. And the difference we have about this bill and this manager's amendment is on the impact it will have.

Does it help poor people, middle-income people that want to get access to homeownership? No.

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And I would submit for the RECORD an article by Star Parker, who entitles this bill, ''How to Limit Homeownership for the Poor.''

Does this bill help existing homeowners? No, because it will decrease credit availability, which means fewer people will get access to loans. There will be fewer buyers for your home. And the law of supply and demand means that all of our homes will decrease in value because there will be fewer people available to buy.

Who does this bill help? Well, this bill does help landlords. Very few people will be able to buy homes in the future. Very few people will qualify for the credit. So if you are a landlord, you should be thankful. It helps lawyers. As the Wall Street Journal said, this is the 1–800 Sue Your Banker Act. This is the lawyers and landlords relief act.

[From Scripps Howard News Service, Nov. 9, 2007]

HOW TO LIMIT HOME OWNERSHIP FOR THE POOR

(By Star Parker)

The Mortgage Reform and Anti-Predatory Lending Act of 2007 has passed out of Chairman Barney Frank's House Financial Services Committee. It's now headed to the full House for a vote. In the name of protecting the poor from market predators it will in actuality protect the poor from wealth.

This is yet a new chapter in the grand liberal tradition that advances the illusion that government micromanagement of private lives and markets will make us better off. We already have laws against fraud and theft. But for liberals, government isn't there to enforce the law. It's there to run our lives.

The legislation assumes that when private individuals make mistakes they can't figure out what they did wrong and make adjustments and that even if they could they wouldn't.

We're going to wind up with new and onerous regulations in the business of making loans to consumers for purchasing homes, and as a result, fewer loans will be made and we'll all be worse off. Those who will be penalized the most will be the low-income families who the new regulations will supposedly protect.

Should fraud be permitted in our society? No. Should government interfere with private individuals' latitude to determine on their own what risks they wish to take and the willingness of others to finance those risks? Absolutely not.

Frank's bill crosses far over the line into regulating private lives and behavior where he and government have no business.

Why will this hurt the very low-income families it purports to protect?

We already have plenty of experience with the costs of so-called consumer protection laws in general and those designed to regulate mortgage lending in particular.

In a recently published article in the Cato Supreme Court Review, Professor Marcus Cole of the Stanford University Law School discusses the fallout of lending laws in Illinois.

The Illinois Fairness in Lending Act passed in 2005 gives the state oversight authority on loans made in nine designated zip codes in the state. These zip codes are, of course, areas in which residents are mostly lower-income households.

The law places authority in a state bureaucracy to review all applications for mortgages in these designated zip codes. The bureaucrats who review these applications determine if the borrower needs credit counseling and requires the lender to pay for it if required.

The costs of the counseling are estimated to be as high as $700 and can delay the processing of the loan up to a month.

The borrower has no option to forego this counseling, whose objective is ''to protect homebuyers from predatory lending in Cook County's at-risk communities and reduce the incidence of foreclosures.''

What's the result?

Cole reports the following: ''Instead of protecting hardworking would-be homeowners from predatory lending, the new law protected them from credit. Within just a few months more than 30 mortgage lenders refused to lend on homes purchased in the targeted zip codes. Those lenders determined to service these communities saw a rise in their costs, which translated into higher interest rates on their loans.''

The purported cure was worse than the disease. Cole goes on to note that, ''home sales in the designated zip codes dropped an average of 45 percent in just one month after the bill took effect. Home prices plummeted, draining relatively poor but hardworking people of what little equity they had in their homes.''

The experience is similar in other states where governments have authorized bureaucrats to insert themselves between lenders and borrowers. Yes, the number of defaults have declined. They have declined because the number of loans have declined.

The Wall Street Journal reports that currently ''80 percent of subprime loans are being repaid on time and another 10 percent are only 30 days behind.''

These are overwhelmingly loans to low-income families. Probably, under Barney Frank's new regulatory regime, many of these loans would not have been made and the families in these homes would be renting and considerably less wealthy than they are today.

To quote former Texas Rep. Dick Armey, ''freedom works.'' But it can only work if we let it.

Many have paid and are paying a great price for the errors and excesses of recent years. We now should allow private individuals and private markets the opportunity to self correct, which is what will happen.

If government steps in to pre-empt the market and Barney Frank is the one to decide who gets loans, the rich will stay rich, the poor will stay poor, and we'll have one more reason for already skeptical Americans to question the American dream.

Mr. BACHUS. Mr. Chairman, I rise in support of the bipartisan manager's amendment. It makes both technical and substantive changes in the legislation, and I think significant contributions. For example, the amendment incorporates language authored by the gentleman from California (Mr. GARY G. MILLER). His amendment clarifies the bill's anti-steering provisions to ensure that consumers retain the ability to finance points and fees in connection with a mortgage transaction. It also corrects certain problems in the provisions dealing with renters and foreclosed properties that Mr. MARCHANT from Texas raised during the markup. And it addresses some of those problems.

The amendment also includes provisions drafted by the gentlelady from Ohio (Ms. PRYCE) that will give consumers regular updates on the term of their mortgages and advance notice of any impending interest rate adjustments. Now, these are important improvements in the bill. And I again thank Chairman FRANK and the other members who contributed to the manager's amendment, and urge support for the manager's amendment.

I would yield the remaining time that I have to the gentleman from California (Mr. CAMPBELL).

The CHAIRMAN. The gentleman from California is recognized for 1¾ minutes.

Mr. CAMPBELL of California. I thank the ranking member for yielding.

I wish this manager's amendment was going to make this a good bill and improve this bill, but it is not making it a good bill.

We have a patient that is sick. That is the mortgage market. But what we are doing here is practicing medieval medicine. We are bleeding the patient. We're going to make the patient worse.

There's no argument that we ought to be doing something to improve the subprime and generally the mortgage market in this country as it goes forward, but we should not make it worse. And that's what this will do. And it will make it worse by drying up credit. And that's the biggest problem we have right now. People can't get loans for houses. And this is going to make it ever more difficult because it restricts the amount of loans they can get, and it puts in liability as well.

And, you know, it won't hurt the person buying a $1 million house with 50 percent down. That person will be fine. Who it's going to hurt is the person out there buying a $200,000 house with $2,500 in cash and a loan from their uncle. But they've got a good job and they think they can get this thing done. But under this bill, banks and lenders are not going to make that loan. And that's the problem with this bill, and that's why this bill should be roundly defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. FRANK).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. KANJORSKI

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110–450.

Mr. KANJORSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. KANJORSKI:

Page 134, after line 13 insert the folowing new titles (and conform the table of contents accordingly):

TITLE VI—MORTGAGE SERVICING

SEC. 601. ESCROW AND IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129B (as added by section 201) the following new section:

"SEC. 129C. ESCROW OR IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

''(a) IN GENERAL.—Except as provided in subsection (b) or (c), a creditor, in connection with the formation or consummation of a consumer credit transaction secured by a first lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, shall establish, at the time of the consummation of such transaction, an escrow or impound account for the payment of taxes and hazard insurance, and, if applicable, flood insurance, mortgage insurance, ground rents, and any other required periodic payments or premiums with respect to the property or the loan terms, as provided in, and in accordance with, this section.

''(b) WHEN REQUIRED.—No impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property may be required as a condition of a real property sale contract or a loan secured by a first deed of trust or mortgage on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, except when—

''(1) any such impound, trust, or other type of escrow or impound account for such purposes is required by Federal or State law;

''(2) a loan is made, guaranteed, or insured by a State or Federal governmental lending or insuring agency;

''(3) the consumer's debt-to-income ratio at the time the home mortgage is established taking into account income from all sources including the consumer's employment exceeds 50 percent;

''(4) the transaction is secured by a first mortgage or lien on the consumer's principal dwelling and the annual percentage rate on the credit, at the time of consummation of the transaction, will exceed by more than 3.0 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application of the extension of credit is received by the creditor;

''(5) a consumer obtains a mortgage referred to in section 103(aa);

''(6) the original principal amount of such loan at the time of consummation of the transaction is—

''(A) 90 percent or more of the sale price, if the property involved is purchased with the proceeds of the loan; or

''(B) 90 percent or more of the appraised value of the property securing the loan;

''(7) the combined principal amount of all loans secured by the real property exceeds 95 percent of the appraised value of the property securing the loans at the time of consummation of the last mortgage transaction;

''(8) the consumer was the subject of a proceeding under title 11, United States Code, at any time during the 7-year period preceding the date of the transaction (as determined on the basis of the date of entry of the order for relief or the date of adjudication, as the case may be, with respect to such proceeding and included in a consumer report on the consumer under the Fair Credit Reporting Act); or

''(9) so required by the Board pursuant to regulation.

''(c) DURATION OF MANDATORY ESCROW OR IMPOUND ACCOUNT.—An escrow or impound account established pursuant to subsection (b), shall remain in existence for a minimum period of 5 years and until such borrower has sufficient equity in the dwelling securing the consumer credit transaction so as to no longer be required to maintain private mortgage insurance, or such other period as may be provided in regulations to address situations such as borrower delinquency, unless the underlying mortgage establishing the account is terminated.

''(d) CLARIFICATION ON ESCROW ACCOUNTS FOR LOANS NOT MEETING STATUTORY TEST.—For mortgages not covered by the requirements of subsection (b), no provision of this section shall be construed as precluding the establishment of an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property—

''(1) on terms mutually agreeable to the parties to the loan;

''(2) at the discretion of the lender or servicer, as provided by the contract between the lender or servicer and the borrower; or

''(3) pursuant to the requirements for the escrowing of flood insurance payments for regulated lending institutions in section 102(d) of the Flood Disaster Protection Act of 1973.

''(e) ADMINISTRATION OF MANDATORY ESCROW OR IMPOUND ACCOUNTS.—

''(1) IN GENERAL.—Except as may otherwise be provided for in this title or in regulations prescribed by the Board, escrow or impound accounts established pursuant to subsection (b) shall be established in a federally insured depository institution.

''(2) ADMINISTRATION.—Except as provided in this section or regulations prescribed under this section, an escrow or impound account subject to this section shall be administered in accordance with—

''(A) the Real Estate Settlement Procedures Act of 1974 and regulations prescribed under such Act;

''(B) the Flood Disaster Protection Act of 1973 and regulations prescribed under such Act; and

''(C) the law of the State, if applicable, where the real property securing the consumer credit transaction is located.

''(3) APPLICABILITY OF PAYMENT OF INTEREST.—If prescribed by applicable State or Federal law, each creditor shall pay interest to the consumer on the amount held in any impound, trust, or escrow account that is subject to this section in the manner as prescribed by that applicable State or Federal law.

''(4) PENALTY COORDINATION WITH RESPA.—Any action or omission on the part of any person which constitutes a violation of the Real Estate Settlement Procedures Act of 1974 or any regulation prescribed under such Act for which the person has paid any fine, civil money penalty, or other damages shall not give rise to any additional fine, civil money penalty, or other damages under this section, unless the action or omission also constitutes a direct violation of this section.

''(f) DISCLOSURES RELATING TO MANDATORY ESCROW OR IMPOUND ACCOUNT.—In the case of any impound, trust, or escrow account that is subject to this section, the creditor shall disclose by written notice to the consumer at least 3 business days before the consummation of the consumer credit transaction giving rise to such account or in accordance with timeframes established in prescribed regulations the following information:

''(1) The fact that an escrow or impound account will be established at consummation of the transaction.

''(2) The amount required at closing to initially fund the escrow or impound account.

''(3) The amount, in the initial year after the consummation of the transaction, of the estimated taxes and hazard insurance, including flood insurance, if applicable, and any other required periodic payments or premiums that reflects, as appropriate, either the taxable assessed value of the real property securing the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction) or the replacement costs of the property.

''(4) The estimated monthly amount payable to be escrowed for taxes, hazard insurance (including flood insurance, if applicable) and any other required periodic payments or premiums.

''(5) The fact that, if the consumer chooses to terminate the account at the appropriate time in the future, the consumer will become responsible for the payment of all taxes, hazard insurance, and flood insurance, if applicable, as well as any other required periodic payments or premiums on the property unless a new escrow or impound account is established.

''(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) FLOOD INSURANCE.—The term 'flood insurance' means flood insurance coverage provided under the national flood insurance program pursuant to the National Flood Insurance Act of 1968.

''(2) HAZARD INSURANCE.—The term 'hazard insurance' shall have the same meaning as provided for 'hazard insurance', 'casualty insurance', 'homeowner's insurance', or other similar term under the law of the State where the real property securing the consumer credit transaction is located.''.

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National

Credit Union Administration Board, (hereafter in this Act referred to as the ''Federal banking agencies'') and the Federal Trade Commission shall prescribe, in final form, such regulations as determined to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall only apply to covered mortgage loans consummated after the end of the 1-year period beginning on the date of the publication of final regulations in the Federal Register.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129B (as added by section 201) the following new item:

''129C. Escrow or impound accounts relating to certain consumer credit transactions.''.

SEC. 602. DISCLOSURE NOTICE REQUIRED FOR CONSUMERS WHO WAIVE ESCROW SERVICES.

(a) IN GENERAL.—Section 129C of the Truth in Lending Act (as added by section 601) is amended by adding at the end the following new subsection:

''(h) DISCLOSURE NOTICE REQUIRED FOR CONSUMERS WHO WAIVE ESCROW SERVICES.—

''(1) IN GENERAL.—If—

''(A) an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to real property securing a consumer credit transaction is not established in connection with the transaction; or

''(B) a consumer chooses, at any time after such an account is established in connection with any such transaction and in accordance with any statute, regulation, or contractual agreement, to close such account,

the creditor or servicer shall provide a timely and clearly written disclosure to the consumer that advises the consumer of the responsibilities of the consumer and implications for the consumer in the absence of any such account.

''(2) DISCLOSURE REQUIREMENTS.—Any disclosure provided to a consumer under paragraph (1) shall include the following:

''(A) Information concerning any applicable fees or costs associated with either the non-establishment of any such account at the time of the transaction, or any subsequent closure of any such account.

''(B) A clear and prominent notice that the consumer is responsible for personally and directly paying the non-escrowed items, in addition to paying the mortgage loan payment, in the absence of any such account, and the fact that the costs for taxes, insurance, and related fees can be substantial.

''(C) A clear explanation of the consequences of any failure to pay non-escrowed items, including the possible requirement for the forced placement of insurance by the creditor or servicer and the potentially higher cost (including any potential commission payments to the servicer) or reduced coverage for the consumer in the event of any such creditor-placed insurance.''.

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Federal banking agencies and the Federal Trade Commission shall prescribe, in final form, such regulations as such agencies determine to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall only apply in accordance with the regulations established in paragraph (1) and beginning on the date occurring 180-days after the date of the publication of final regulations in the Federal Register.

SEC. 603. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENTS.

(a) SERVICER PROHIBITIONS.—Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by adding at the end the following new subsections:

''(k) SERVICER PROHIBITIONS.—

''(1) IN GENERAL.—A servicer of a federally related mortgage shall not—

''(A) obtain force-placed hazard insurance unless there is a reasonable basis to believe the borrower has failed to comply with the loan contract's requirements to maintain property insurance;

''(B) charge fees for responding to valid qualified written requests (as defined in regulations which the Secretary shall prescribe) under this section;

''(C) fail to take timely action to respond to a borrower's requests to correct errors relating to allocation of payments, final balances for purposes of paying off the loan, or avoiding foreclosure, or other standard servicer's duties;

''(D) fail to respond within 10 business days to a request from a borrower to provide the identity, address, and other relevant contact information about the owner assignee of the loan; or

''(E) fail to comply with any other obligation found by the Secretary, by regulation, to be appropriate to carry out the consumer protection purposes of this Act.

''(2) FORCE-PLACED INSURANCE DEFINED.—For purposes of this subsection and subsections (l) and (m), the term 'force-placed insurance' means hazard insurance coverage obtained by a servicer of a federally related mortgage when the borrower has failed to maintain or renew hazard insurance on such property as required of the borrower under the terms of the mortgage.

''(l) REQUIREMENTS FOR FORCE-PLACED INSURANCE.—A servicer of a federally related mortgage shall not be construed as having a reasonable basis for obtaining force-placed insurance unless the requirements of this subsection have been met.

''(1) WRITTEN NOTICES TO BORROWER.—A servicer may not impose any charge on any borrower for force-placed insurance with respect to any property securing a federally related mortgage unless—

''(A) the servicer has sent, by first-class mail, a written notice to the borrower containing—

''(i) a reminder of the borrower's obligation to maintain hazard insurance on the property securing the federally related mortgage;

''(ii) a statement that the servicer does not have evidence of insurance coverage of such property;

''(iii) a clear and conspicuous statement of the procedures by which the borrower may demonstrate that the borrower already has insurance coverage; and

''(iv) a statement that the servicer may obtain such coverage at the borrower's expense if the borrower does not provide such demonstration of the borrower's existing coverage in a timely manner;

''(B) the servicer has sent, by first-class mail, a second written notice, at least 30 days after the mailing of the notice under subparagraph (A) that contains all the information described in each clauses of such subparagraph; and

''(C) the servicer has not received from the borrower any demonstration of hazard insurance coverage for the property securing the mortgage by the end of the 15-day period beginning on the date the notice under subparagraph (B) was sent by the servicer.

''(2) SUFFICIENCY OF DEMONSTRATION.—A servicer of a federally related mortgage shall accept any reasonable form of written confirmation from a borrower of existing insurance coverage, which shall include the existing insurance policy number along with the identity of, and contact information for, the insurance company or agent.

''(3) TERMINATION OF FORCE-PLACED INSURANCE.—Within 15 days of the receipt by a servicer of confirmation of a borrower's existing insurance coverage, the servicer shall—

''(A) terminate the force-placed insurance; and

''(B) refund to the consumer all force-placed insurance premiums paid by the borrower during any period during which the borrower's insurance coverage and the force-placed insurance coverage were each in effect, and any related fees charged to the consumer's account with respect to the force-placed insurance during such period.

''(4) CLARIFICATION WITH RESPECT TO FLOOD DISASTER PROTECTION ACT.—No provision of this section shall be construed as prohibiting a servicer from providing simultaneous or concurrent notice of a lack of flood insurance pursuant to section 102(e) of the Flood Disaster Protection Act of 1973.

''(m) LIMITATIONS ON FORCE-PLACED INSURANCE CHARGES.—All charges for force-placed insurance premiums shall be bona fide and reasonable in amount.

''(n) PROMPT CREDITING OF PAYMENTS REQUIRED.—

''(1) IN GENERAL.—All amounts received by a lender or a servicer on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, on the business day received, to the extent that the borrower has made the full contractual payment and has provided sufficient information to credit the account.

''(2) SCHEDULED METHOD.—If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date.

''(3) NOTICE OF NONCREDIT.—If any payment is received by a lender or a servicer on a home loan and not credited, or treated as credited, the borrower shall be notified within 10 business days by mail at the borrower's last known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.''.

(b) INCREASE IN PENALTY AMOUNTS.—Section 6(f) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(f)) is amended—

(1) in paragraphs (1)(B) and (2)(B), by striking ''$1,000'' each place such term appears and inserting ''$2,000''; and

(2) in paragraph (2)(B)(i), by striking ''$500,000'' and inserting ''$1,000,000''.

(c) DECREASE IN RESPONSE TIMES.—Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended—

(1) in paragraph (1)(A), by striking ''20 days'' and inserting ''10 days'';

(2) in paragraph (2), by striking ''60 days'' and inserting ''30 days''; and

(3) by adding at the end the following new paragraph:

''(4) LIMITED EXTENSION OF RESPONSE TIME.—The 30-day period described in paragraph (2) may be extended for not more than 30 days if, before the end of such 30-day period, the servicer notifies the borrower of the extension and the reasons for the delay in responding.''.

(d) REQUESTS FOR PAY-OFF AMOUNTS.—Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended by inserting after paragraph (4) (as added by subsection (c) of this section) the following new paragraph:

''(5) REQUESTS FOR PAY-OFF AMOUNTS.—A creditor or servicer shall send a payoff balance within 7 business days of the receipt of a written request for such balance from or on behalf of the borrower.''.

(e) PROMPT REFUND OF ESCROW ACCOUNTS UPON PAYOFF.—Section 6(g) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended by adding at the end the following new sentence: ''Any balance in any such account that is within the servicer's control at the time the loan is paid off shall be promptly returned to the borrower within 20 business days or credited to a similar account for a new mortgage loan to the borrower with the same lender.''.

SEC. 604. MORTGAGE SERVICING STUDIES REQUIRED.

(a) MORTGAGE SERVICING PRACTICES.—

(1) STUDY.—The Secretary of Housing and Urban Development, in consultation with the Federal banking agencies, and the Federal Trade Commission, shall conduct a comprehensive study on mortgage servicing practices and their potential for fraud and abuse.

(2) ISSUES TO BE INCLUDED.—In addition to other issues the Secretary of Housing and Urban Development, the Federal banking agencies, and the Federal Trade Commission may determine to be appropriate and possibly pertinent to the study conducted under paragraph (1), the study shall include the following issues:

(A) A survey of the industry in order to examine the issue of the timely or effective posting of payments by servicers.

(B) The employment of daily interest when payments are made after a due date.

(C) The charging of late fees on the entire outstanding principal.

(D) The charging of interest on servicing fees.

(E) The utilization of collection practices that failed to comply with the Fair Debt Collection Practices Act.

(F) The charging of prepayment penalties when not authorized by either the note or law.

(G) The employment of unconscionable forbearance agreements.

(H) Foreclosure abuses.

(3) REPORT.—Before the end of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report on the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) MORTGAGE SERVICING IMPROVEMENTS.—

(1) STUDY.—The Secretary of Housing and Urban Development, in consultation with the Federal banking agencies, and the Federal Trade Commission, shall conduct a comprehensive study on means to improve the best practices of the mortgage servicing industry, and Federal and State laws governing such industry.

(2) REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report on the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action as the Secretary, in consultation with the Board and the Commission, may determine to be appropriate.

SEC. 605. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.

(a) IN GENERAL.—Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended by adding at the end the following new paragraph:

''(4) REPAYMENT ANALYSIS REQUIRED TO INCLUDE ESCROW PAYMENTS.—

''(A) IN GENERAL.—In the case of any consumer credit transaction secured by a first mortgage or lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, for which an impound, trust, or other type of account has been or will be established in connection with the transaction for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property, the information required to be provided under subsection (a) with respect to the number, amount, and due dates or period of payments scheduled to repay the total of payments shall take into account the amount of any monthly payment to such account for each such repayment in accordance with section 10(a)(2) of the Real Estate Settlement Procedures Act of 1974.

''(B) ASSESSMENT VALUE.—The amount taken into account under subparagraph (A) for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property shall reflect the taxable assessed value of the real property securing the transaction after the consummation of the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction), if known, and the replacement costs of the property for hazard insurance, in the initial year after the transaction.''.

TITLE VII—APPRAISAL ACTIVITIES

SEC. 701. PROPERTY APPRAISAL REQUIREMENTS.

Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (u) (as added by section 303(f)) the following new subsection:

''(v) PROPERTY APPRAISAL REQUIREMENTS.—

''(1) IN GENERAL.—A creditor may not extend credit in the form of a mortgage referred to in section 103(aa) to any consumer without first obtaining a written appraisal of the property to be mortgaged prepared in accordance with the requirements of this subsection.

''(2) APPRAISAL REQUIREMENTS.—

''(A) PHYSICAL PROPERTY VISIT.—An appraisal of property to be secured by a mortgage referred to in section 103(aa) does not meet the requirement of this subsection unless it is performed by a qualified appraiser who conducts a physical property visit of the interior of the mortgaged property.

''(B) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES.—

''(i) IN GENERAL.—If the purpose of a mortgage referred to in section 103(aa) is to finance the purchase or acquisition of the mortgaged property from a person within 180 days of the purchase or acquisition of such property by that person at a price that was lower than the current sale price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

''(ii) NO COST TO CONSUMER.—The cost of any second appraisal required under clause (i) may not be charged to the consumer.

''(C) QUALIFIED APPRAISER DEFINED.—For purposes of this subsection, the term 'qualified appraiser' means a person who—

''(i) is certified or licensed by the State in which the property to be appraised is located; and

''(ii) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the regulations prescribed under such title, as in effect on the date of the appraisal.

''(3) FREE COPY OF APPRAISAL.—A creditor shall provide 1 copy of each appraisal conducted in accordance with this subsection in connection with a mortgage referred to in section 103(aa) to the consumer without charge, and at least 3 days prior to the transaction closing date.

''(4) CONSUMER NOTIFICATION.—At the time of the initial mortgage application, the consumer shall be provided with a statement by the creditor that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the consumer may choose to have a separate appraisal conducted at their own expense.

''(5) VIOLATIONS.—In addition to any other liability to any person under this title, a creditor found to have willfully failed to obtain an appraisal as required in this subsection shall be liable to the consumer for the sum of $2,000.''.

SEC. 702. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129C (as added by section 601) the following new section:

''SEC. 129D. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

''(a) IN GENERAL.—It shall be unlawful, in providing any services for a consumer credit transaction secured by the principal dwelling of the consumer, to engage in any unfair or deceptive act or practice as described in or pursuant to regulations prescribed under this section.

''(b) APPRAISAL INDEPENDENCE.—For purposes of subsection (a), unfair and deceptive practices shall include—

''(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

''(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;

''(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

''(4) failing to timely compensate an appraiser for a completed appraisal regardless of whether the transaction closes.

''(c) EXCEPTIONS.—The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

"(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

"(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

"(3) Correct errors in the appraisal report.

"(d) RULEMAKING PROCEEDINGS.—The Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission—

"(1) shall, for purposes of this section, jointly prescribe regulations defining with specificity acts or practices which are unfair or deceptive in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction and defining any terms in this section or such regulations; and

"(2) may jointly issue interpretive guidelines and general statements of policy with respect to unfair or deceptive acts or practices in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), and (c).

"(e) PENALTIES.—

"(1) FIRST VIOLATION.—In addition to the enforcement provisions referred to in section 130, each person who violates this section shall forfeit and pay a civil penalty of not more than $10,000 for each day any such violation continues.

"(2) SUBSEQUENT VIOLATIONS.—In the case of any person on whom a civil penalty has been imposed under paragraph (1), paragraph (1) shall be applied by substituting '$20,000' for '$10,000' with respect to all subsequent violations.

"(3) ASSESSMENT.—The agency referred to in subsection (a) or (c) of section 108 with respect to any person described in paragraph (1) shall assess any penalty under this subsection to which such person is subject.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129C (as added by section 601) the following new item:

"129D. Unfair and deceptive practices and acts relating to certain consumer credit transactions.".

SEC. 703. APPRAISAL SUBCOMMITTEE OF FIEC, APPRAISER INDEPENDENCE, AND APPROVED APPRAISER EDUCATION.

(a) CONSUMER PROTECTION MISSION.—

(1) PURPOSE.—A purpose for the establishment and operation of the Appraisal Subcommittee of the Financial Institutions Examination Council (hereafter in this section referred to as the "Appraisal Subcommittee") shall be to establish a consumer protection mandate.

(2) FUNCTIONS OF APPRAISAL SUBCOMMITTEE.—It shall be a function of the Appraisal Subcommittee to protect the consumer from improper appraisal practices and the predations of unlicensed appraisers.

(3) THRESHOLD LEVELS.—In establishing a threshold level under section 1112(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341(b)), each agency shall determine in writing that the threshold level provides reasonable protection for consumers who purchase 1-4 unit single-family residences.

(b) ANNUAL REPORT OF APPRAISAL SUBCOMMITTEE.—The annual report of the Appraisal Subcommittee under section 1103(a)(4) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval.

(c) OPEN MEETINGS.—All meetings of the Appraisal Subcommittee shall be held in public session after notice in the Federal Register.

(d) REGULATIONS.—The Appraisal Subcommittee may prescribe regulations after notice and opportunity for comment. Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this section or title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, and government agencies, and hold regular meetings.

(e) FIELD APPRAISALS AND APPRAISAL REVIEWS.—All field appraisals performed at a property within a State shall be prepared by appraisers licensed in the State where the property is located. All Uniform Standards of Professional Appraisal Practice-compliant appraisal reviews shall be performed by an appraiser who is duly licensed by a State appraisal board.

(f) STATE AGENCY REPORTING REQUIREMENT.—Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall transmit reports on sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee.

(g) REGISTRY FEES MODIFIED.—

(1) IN GENERAL.—The annual registry fees for persons performing appraisals in federally related transactions shall be increased from $25 to $40. The maximum amount up to which the Appraisal Subcommittee may adjust any registry fees shall be increased from $50 to $80 per annum. The Appraisal Subcommittee shall consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees.

(2) INCREMENTAL REVENUES.—Incremental revenues collected pursuant to the increases required by this section shall be placed in a separate account at the United States Treasury, entitled the Appraisal Subcommittee Account.

(h) GRANTS AND REPORTS.—

(1) IN GENERAL.—Amounts appropriated for or collected by the Appraisal Subcommittee after the date of the enactment of this Act shall, in addition to other uses authorized, be used—

(A) to make grants to State appraiser regulatory agencies to help defray those costs relating to enforcement activities; and

(B) to report to all State appraiser certifying and licensing agencies when a license or certification is surrendered, revoked, or suspended.

(2) LIMITATION ON OBLIGATIONS.—Obligations authorized under this section may not exceed 75 percent of the fiscal year total of incremental increase in fees collected and deposited in the Appraisal Subcommittee Account pursuant to section 703(g) of this Act.

(i) CRITERIA.—

(1) DEFINITION.—For purposes of this section and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (notwithstanding section 1116(c) of such title), the term "State licensed appraiser" means an individual who has satisfied the requirements for State licensing in a State or territory whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers.

(2) MINIMUM QUALIFICATION REQUIREMENTS.—Any requirements established for individuals in the position of "Trainee Appraiser" and "Supervisory Appraiser" shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.

(j) MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.—The Appraisal Subcommittee shall monitor State appraiser certifying and licencing agencies for the purpose of determining whether a State agency's funding and staffing are consistent with the requirements of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, whether a State agency processes complaints and completes exams in a reasonable time period, and whether a State agency reports claims and disciplinary actions on a timely basis to the national registry maintained by the Appraisal Subcommittee. The Appraisal Subcommittee shall have the authority to impose interim sanctions and suspensions.

(k) RECIPROCITY.—A State appraiser certifying or licensing agency shall issue a reciprocal certification or license for an individual from another State when—

(1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this title; and

(2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.

(l) CONSIDERATION OF PROFESSIONAL APPRAISAL DESIGNATIONS.—No provision of section 1122(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be construed as prohibiting consideration of designations conferred by recognized national professional appraisal organizations, such as sponsoring organizations of The Appraisal Foundation.

(m) APPRAISER INDEPENDENCE.—

(1) PROHIBITIONS ON INTERESTED PARTIES IN A REAL ESTATE TRANSACTION.—No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(2) EXCEPTIONS.—The requirements of paragraph (1) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of

an appraisal management company, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

(A) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

(B) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

(C) Correct errors in the appraisal report.

(3) PROHIBITIONS ON CONFLICTS OF INTEREST.—No certified or licensed appraiser conducting an appraisal may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

(4) MANDATORY REPORTING.—Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction involving an appraisal who has a reasonable basis to believe an appraiser is violating applicable laws, or is otherwise engaging in unethical conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.

(5) REGULATIONS.—The Federal financial institutions regulatory agencies (as defined in section 1003(1) of the Federal Financial Institutions Examination Council Act of 1978) shall prescribe such regulations as may be necessary to carry out the provisions of this subsection.

(6) PENALTIES.—Any person who violates any provision of this subsection shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(7) PROCEEDING.—A proceeding with respect to a violation of this subsection shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

(n) APPROVED EDUCATION.—The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board's Course Approval Program.

SEC. 704. STUDY REQUIRED ON IMPROVEMENTS IN APPRAISAL PROCESS AND COMPLIANCE PROGRAMS.

(a) STUDY.—The Comptroller General shall conduct a comprehensive study on possible improvements in the appraisal process generally, and specifically on the consistency in and the effectiveness of, and possible improvements in, State compliance efforts and programs in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. In addition, this study shall examine the existing de minimis loan levels established by Federal regulators for compliance under title XI and whether there is a need to revise them to reflect the addition of consumer protection to the purposes and functions of the Appraisal Subcommittee.

(b) REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action, at the Federal or State level, as the Comptroller General may determine to be appropriate.

SEC. 705. CONSUMER APPRAISAL DISCLOSURE.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129D (as added by section 702) the following new section:

"SEC. 129E. CONSUMER APPRAISAL DISCLOSURE.

"In any case in which an appraisal is performed in connection with an extension of credit secured by an interest in real property, the creditor or other mortgage originator shall make available to the applicant for the extension of credit a copy of all appraisal valuation reports upon completion but no later than 3 business days prior to the transaction closing date.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129D (as added by section 702) the following new item:

"129E. Consumer appraisal disclosure.".

The CHAIRMAN. Pursuant to House Resolution 825, the gentleman from Pennsylvania (Mr. KANJORSKI) and a member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Chairman, I've long said that predatory lending is a complex problem that requires a comprehensive solution. The adoption of my amendment will make this bill more complete.

This amendment is based on the Escrow, Appraisal and Mortgage Servicing Improvements Act, H.R. 3837, which the Financial Services Committee approved last week on a voice vote. In brief, this amendment would improve mortgage servicing, better escrowing practices, and enhance appraiser oversight.

I am pleased that several Members of both sides of the aisle have joined me to put forward this worthwhile amendment. This proposal also has the support of many outside of this Chamber, including the Appraisal Institute, the National Association of Realtors, the National Association of Mortgage Brokers, and the Center for Responsible Lending, to name a few.

While there are many components to this proposal, I would like to highlight three of its key provisions. First, it would mandate the establishment of escrows for those borrowers who meet certain tests to protect them from tax liens and costly force placed insurance. We have learned that the subprime borrowers are substantially less likely than prime borrowers to have escrows, even though they are more likely to need help in budgeting for these substantial expenses.

Secondly, the amendment reforms mortgage servicing by mandating swifter response times to consumer inquiries. This change ought to help ensure that those homeowners who need help in the coming months will receive expedited assistance from their mortgage servicers.

Third, the amendment would establish enforceable national appraisal independence standards with sufficient penalties. The appraisal field is one that demands reform, as evidenced by 90 percent of the appraisers reporting pressure to inflate values. Appraisals verify the value of the collateral for the buyer, the seller, the lender, and the investor. Protection from pressure is, therefore, vital.

Two other issues in this amendment that deserve mention today include the prompt crediting of payments by servicers and providing borrowers with timely access to all appraisals. Going forward, we will work to polish the wording of the former. We will also conform the language of the latter to the existing standards of the Equal Credit Opportunity Act.

In sum, Mr. Chairman, my amendment should be part of the legislative response to improve lending practices and enhance accountability. I encourage every one of my colleagues to support this.

I reserve the balance of my time.

Mrs. BIGGERT. Mr. Chairman, I claim the time in opposition, although I am not opposed.

The CHAIRMAN. Without objection, the gentlewoman from Illinois is recognized for 5 minutes.

There was no objection.

Mrs. BIGGERT. Mr. Chairman, I would like to echo the remarks of Mr. KANJORSKI and thank him and my colleagues, Mr. HODES, Mrs. CAPITO and Ms. MOORE, for working on this amendment, which is based on H.R. 3837, the Escrow, Appraisal and Mortgage Servicing Improvements Act.

Overall, this amendment addresses deceptive, abusive and fraudulent mortgage lending practices related to titles on escrow accounts, mortgage servicing and appraisals. We worked hard following our markup last week to clean up language in this amendment regarding the prompt crediting of payments and Truth in Lending Act and the Real Estate Settlement Procedures Act, commonly known as RESPA, liability, in addition to making several more technical changes.

We have more to do, especially further developing the language in the payments and escrow sections in this bill; but I'm confident that, based on the bipartisan progress that we've made this far, we can work out our differences as the bill continues to move through the legislative process.

Again, I thank Mr. KANJORSKI and my colleagues from both sides of the aisle for their hard work and cooperation on this amendment. It has broad bipartisan support, and I urge my colleagues to vote for it.

I reserve the balance of my time.

Mr. KANJORSKI. Mr. Chairman, may I inquire what time we have left.

The CHAIRMAN. The gentleman from Pennsylvania has 2 minutes. The gentlewoman from Illinois has 3½ minutes.

Mr. KANJORSKI. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire (Mr. HODES).

Mr. HODES. Mr. Chairman, I thank Representative KANJORSKI, the chairman of the Capital Markets Subcommittee, for yielding me this time.

I believe that this amendment is a good complement to Chairman FRANK's antipredatory lending bill, and I commend colleagues on both sides of the aisle for the bipartisan nature of this amendment, which is similar to H.R. 3837, the bill of which I was a proud cosponsor.

Many of my constituents have had problems with their mortgage servicers. This amendment makes sure that servicers provide faster responses to consumer inquiries and provides increased penalties for abusive servicing practices.

Escrows help homeowners pay their property taxes on time, but many homeowners are unaware of the total cost of the loan because the exact amount of taxes and insurance isn't disclosed at the time of closing. This amendment would make sure that homeowners are informed of the actual amount of the loan, including the escrow payments.

And also, lastly, faulty appraisals have been a huge problem and can have a devastating impact on a family's single largest investment, their home. If the initial appraisal is inaccurate, reselling the home for what the family paid can be nearly impossible.

The amendment creates a Federal independent standard for appraisals enforced by tough penalties.

I urge my colleagues to support the amendment.

Mrs. BIGGERT. Mr. Chairman, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Chairman, I yield 1 minute to the gentlelady from Wisconsin (Ms. MOORE).

Ms. MOORE of Wisconsin. Mr. Chairman, I'll be brief.

I hope that with Mr. FRANK's bill, we can see that these exotic products have created a crisis in the mortgage industry. But as Attorney General Cuomo from New York said, any real estate scam, at the very base and root of it, is a faulty and a bad appraisal.

This is a very commonsense regulation, and I congratulate Mr. KANJORSKI and my other co-authors for bringing this forward.

This amendment is about putting the interests of homebuyers first.

Buying a home is daunting enough without having to worry that the people that supposedly work for you aren't on your side.

The safeguards in this amendment—the independence standards for appraisers and provisions that strengthen Federal oversight of the appraisal process will assure homebuyers that the home they are purchasing hasn't been inflated in "perceived" value by an unscrupulous appraiser.

A bad appraisal can also make it impossible for a subprime borrower to refinance—what happens when they try to get into a prime loan and a responsible bank wants a responsible appraisal done? That's when the other shoe drops and the homeowner finds out they've been duped.

These safeguards would protect consumers, but would also benefit the secondary market and our economy.

When a mortgage is sold on the secondary market, investors need to know that the securities they hold are backed up by a home that has been appraised accurately.

Further, the amendment's requirements that subprime and other at-risk borrowers receive an escrow account will protect those borrowers from huge end-of-the-year tax bills and will reduce foreclosures.

I urge my colleagues to support the Kanjorski-Biggert-Capito-Hodes-Moore amendment.

Mrs. BIGGERT. Mr. Chairman, I yield the remainder of my time to the gentleman from Alabama, the ranking member, Mr. BACHUS.

Mr. BACHUS. Mr. Chairman, I rise in strong support of this bipartisan amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI). The amendment, among other things, enhances the integrity of the appraisal process, and requires the taxes and insurance on subprime mortgages be escrowed. These are two glaring problems in today's subprime market, and I think both these requirements will go a long way towards making these loans sounder and reducing the number of foreclosures and delinquencies.

These issues are ones that the gentleman from Pennsylvania has worked on for many years. He deserves credit for an amendment that will improve many key aspects of the mortgage origination, servicing, and appraisal process; and I compliment him.

Chairman KANJORSKI worked closely with my colleagues, Ranking Members JUDY BIGGERT and SHELLEY MOORE CAPITO, in crafting the amendment. And the three of them actually offered the amendment that addresses legitimate administrative and operational concerns that have been raised, not only by consumer groups, but by the industry itself. And the mortgage appraisers, or the Appraisers Institute, actually endorsed this measure. And it maintains the underlying bill's strong consumer protection.

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And this amendment offers additional strong protections.

I commend all three of our colleagues for their efforts and urge support for the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. KANJORSKI. I thank the ranking member and the ranking lady of the subcommittee. What a pleasure it was to work on this.

I want to say to all my colleagues that may be listening to our discussion today, this is a perfect example of how this House can find bipartisan support for a very complicated issue.

This amendment sounds like an amendment, but it's a 44-page bill standing on its own, which we are hoping to attach to Mr. FRANK's bill so that we solve all of the major problems remaining that can be solved today and then move on to mitigation of loss in the future.

I urge all of my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI).

The amendment was agreed to.

Mr. FRANK of Massachusetts. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. KAPTUR) having assumed the chair, Mr. CARDOZA, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 3915) to amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to establish licensing and registration requirements for residential mortgage originators, to provide certain minimum standards for consumer mortgage loans, and for other purposes, had come to no resolution thereon.

PERMISSION TO OFFER AMENDMENT NO. 16 OUT OF SEQUENCE DURING FURTHER CONSIDERATION OF H.R. 3915

Mr. FRANK of Massachusetts. Madam Speaker, I ask unanimous consent that during further consideration of H.R. 3915 in the Committee of the Whole pursuant to House Resolution 825, amendment No. 16 may be considered out of sequence.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 825 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3915.

□ 1332

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3915) to amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to establish licensing and registration requirements for residential mortgage originators, to provide certain minimum standards for consumer mortgage loans, and for other purposes, with Mr. CARDOZA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 2 by the gentleman from Pennsylvania (Mr. KANJORSKI) had been disposed of.

AMENDMENT NO. 3 OFFERED BY MRS. MALONEY OF NEW YORK

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110–450.

Mrs. MALONEY of New York. Mr. Chairman, I offer an amendment.